

# EXHIBIT B

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----X  
BRIAN WALSH and BARBARA WALSH,

Plaintiffs,

-against-

Civ. Act. No.:  
09 CIV 1803

KONINKLIJKE LUCHTVAART  
MAATSCHAPPIJ N.V. a/k/a KLM  
ROYAL DUTCH AIRLINES,

Defendant.  
-----X

399 Knollwood Road  
White Plains, New York

January 8, 2010  
2:11 p.m.

EXAMINATION BEFORE TRIAL of BARBARA WALSH, on  
of the Plaintiffs herein, held at the above time and  
place, taken before Cheryl Thompson, a Shorthand  
Reporter and Notary Public within and for the State  
of New York, pursuant to Notice.

\* \* \* \* \*

Page 2

Page 4

## APPEARANCES:

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BY: BARTHOLOMEW J. BANINO, ESQ.  
MARISSA N. LEFLAND, ESQ.

BARBARA WALSH,

one of the Plaintiffs herein, having

been first duly sworn by a Notary

Public of the State of New York, upon

being examined, testified as follows:

EXAMINATION BY

MR. BANINO:

Q Please state your name for the record.

A Barbara Walsh.

Q Please state your address for the  
record.A 5702 Chelsea Cove North, Hopewell  
Junction, New York 12533.Q Miss Walsh, good afternoon. My name  
is Bart Banino, and I am an attorney with Condon &  
Forsyth, and I represent KLM Royal Dutch Airlines.Have you ever given a deposition  
before?

A No.

Q I'm sure your attorney has explained  
this to you, but in a deposition I will be asking  
you questions and you answer the questions as best  
as you can.

We both need to verbalize what we say,

Page 3

Page 5

## STIPULATIONS 3

IT IS HEREBY STIPULATED AND AGREED by and

between the attorneys for the respective parties  
hereto that the sealing, filing, and certification of  
the within deposition be waived; that such deposition  
may be signed and sworn to before any officer  
authorized to administer an oath, with the same force  
and effect as if signed and sworn to before the  
officer before whom said deposition is taken.IT IS FURTHER STIPULATED AND AGREED that  
all objections, except as to form, are reserved to the  
time of trial.

Barbara Walsh 5

my questions, your answers, so that the court  
reporter can get a record of what it is we are  
saying here today. Nodding or saying "um" doesn't  
record very well on the transcript, so we will  
need to speak our answers.And if there are any questions you  
don't understand, please feel free to tell me you  
don't understand, or ask me to rephrase a  
question.If you need a break at any time,  
please let me know.

Okay?

A Yes.

Q Miss Walsh, have you read a copy of  
the transcript of your husband's deposition in  
this case?

A No.

Q Do you know what the subject of this  
lawsuit is?

A Yes.

Q Just to summarize it, it refers to an  
incident that occurred during a transportation in  
July of 2007 involving KLM Royal Dutch Airlines?

A Yes.

Page 6

Barbara Walsh 6

Q Now, did you purchase the tickets for transportation for that trip?

A Do you mean did I purchase them as opposed to my husband?

Q Yes.

A Yes.

Q How did you purchase those tickets?

A I'm not sure what you mean.

Did I do it on the telephone, what do you mean?

Q Sure. What was the manner in which you purchased those tickets?

A We went through Grand Circle Travel and they made all of our airline reservations.

Q Do you have any documents which show your itinerary or ticket purchase?

A Yes.

MR. BANINO: Can we mark this (indicating).

(Whereupon, itinerary was marked Defendant's Exhibit K for Identification, as of this date, by the reporter.)

MR. BANINO: Miss Walsh has just

Page 7

Barbara Walsh 7

handed me a document which we have marked as Defendant's Exhibit K.

Q Miss Walsh, can you please just for the record describe what this document is.

(Whereupon, the witness reviews document.)

A This is a record of the flights and departure dates and departure destination from and to of our trip to Africa.

Q Miss Walsh, how did you come to be in possession of this document?

A My husband, Brian, contacted Grand Circle Travel and asked them to send that to us.

Q When did he contact them?

A Within the last month, within the last month.

Q Do you have any documents from around the date of ticket purchase showing your purchase of the tickets or your itinerary?

A No.

Q Do you have any other documents with you today which relate to this action?

MR. MEENAGH: There is some medical records here.

Page 8

Barbara Walsh 8

MR. BANINO: Okay. Can we mark these as two different exhibits.

(Whereupon, Brian Walsh's treatment documents were marked Defendant's Exhibit L for Identification, as of this date, by the reporter; and Statement was marked Defendant's Exhibit M Identification, as of this date, by the reporter.)

Q Miss Walsh, I'm showing you documents which have been produced today.

Can you just describe for the record what those documents are.

A These are documents related to Brian's treatment after the accident. Some are from Danbury Orthopedic, Danbury -- this is when he had the surgery initially after the accident.

MR. MEENAGH: That's Exhibit L you were just referring to?

MR. BANINO: Yes. I think one is L and one is M.

MR. MEENAGH: Okay. And what about M?

A These are from treatment Brian

Page 9

Barbara Walsh 9

received after the accident.

Q Okay. Thank you.

How did you come into possession of these documents?

A Brian got them.

Q Miss Walsh, I'm sorry I'm repeating myself, but do you have any documents whatsoever either here or at home relating to your actual transportation, and by that I mean receipts, tickets, coupons, itineraries, anything relating to the transportation itself of KLM?

A No.

Q You don't have any of those documents.

Do you have any proof of payment for those tickets of the transportation in general?

A No, not right now.

Q Miss Walsh, I'm going to refer you to the transportation returning home from your safari, and more specifically the first leg of your transportation.

Do you recall the airport that you departed from in Africa?

A I think it was Nairobi, I think.

Q Where did your flight travel to?

Page 10

Barbara Walsh 10

A Amsterdam.

Q Do you recall the time of departure of that flight, approximately, in other words, was it a morning flight, was it an afternoon flight, was it an evening flight?

A I don't remember.

Q Miss Walsh, I'm showing you what's been marked as Defendant's Exhibit K.

(Whereupon, the witness reviews document.)

Q Does looking at this document refresh your recollection as to when the flight departed?

A In the evening.

Q Okay. Do you recall that being the case, does that refresh your recollection that it was an evening flight?

A Yes.

MR. MEENAGH: Aside from just reading that.

A I think I remember now we either had a breakfast or a dinner prior to departure where we were staying, so it was a dinner so it was in the evening.

You know what? No. We had quite a

Page 11

Barbara Walsh 11

ways to go. We had quite a ways to go to get to the airport, so it says 8:55 p.m. so it was an evening flight.

Q Do you recall it being an evening flight?

A What would I recall about it to have been evening, it being dark outside, sleeping on the airplane, I'm not sure what it is you're asking me.

Q Do you remember any of those things as to an overnight flight?

A I remember people sleeping on the airplane but that doesn't necessarily mean it was an overnight flight.

You know what? It says here 8:55 p.m. It was an evening flight. That's --

Q Okay. Do you recall approximately when you arrived in Amsterdam?

A We were inside the airport. I don't.

Q Do you recall approximately what time of day it was, and by that I mean morning, afternoon, or night?

A No.

Q Does looking at that document refresh

Page 12

Barbara Walsh 12

your recollection at all?

A What was the question again?

Q Does looking at that document refresh your recollection at all.

A About what?

Q As to the time of day that you arrived in Amsterdam.

A Well, we departed Amsterdam at 1:30. Let's see.

We left Africa at 9 o'clock at night. I guess it was in the middle of the night, I guess. It was in the nighttime that we arrived there, okay, that we arrived in Amsterdam.

Q Do you recall arriving earlier than the scheduled time?

A I don't remember.

Q What made you think it was evening when you arrived in Amsterdam?

A It says we departed at 8:55 from Africa. I don't think the flight -- I don't remember how long the flight was. It said we departed 8:55.

I'm thinking it wasn't that long a flight but maybe it was. I only know that it was

Page 13

Barbara Walsh 13

about a eight-hour flight from Amsterdam back to New York.

Come to think of it, I think it -- it was a lot. It took us longer to get from Nairobi to Amsterdam than from Amsterdam to New York, so if we left at 9 o'clock from Africa and it took longer than eight hours, we would have arrived in Amsterdam sometime in the early morning, but I don't know how long the flight was to Amsterdam.

Q Do you recall what you did after landing in Amsterdam?

A No, I can say what we probably did. I don't.

We stayed in the airport. I don't remember leaving the airport. We probably got something to eat, you know. It was myself and -- oh, I know what we did, because there were four of us traveling together and one of my friends was staying in Amsterdam.

There were three women, myself and Brian and two friends of mine. One of them was staying in Amsterdam so we had something to eat with her because it was kind of like we'd have our last meal together. She was staying and we

Page 14

Page 16

Barbara Walsh 14  
were going back to New York.

In fact, I remember specifically sitting in -- I think we had spaghetti. We had something to eat.

Q And you referred to two other women. What are their names?

A Jennifer Costabile and Carol McGowan.

Q Do you recall how long the layover was between landing and takeoff of your next flight?

A Well, I don't know why the number 17 is sticking in my head, but it couldn't have been a seventeen-hour flight.

Q I'm sorry. I said layover.

A Right. Well, I would determine the layover, how long it took me to get from Africa to Amsterdam. If we arrived at 5:00, 6:00, 7:00, 8:00, I don't know, four or five hours maybe.

You know, I think we did some shopping. I think we did some shopping in the airport.

Q Do you remember about when, and this is in relation to departure of your next flight, that you headed toward the departure gate?

A Probably, you know, this is what we do

Barbara Walsh 16

Q So the trip to Africa you're counting as two trips to the airport.

A Right.

Q Thank you.

MR. BANINO: Off the record.

(Whereupon, a discussion was held off the record.)

Q Miss Walsh, where did you go when you headed towards the departure gate?

A We went to the waiting area.

Q Can you just describe for the record what the waiting area looked like?

A It had chairs, I don't recall if it had a television, it had chairs to sit in. You know, this was almost three years ago.

MR. MEENAGH: Just best you can.

A All right. I don't remember if it had a counter. I just remember the chairs.

Q Did you sit in those chairs?

A Yes.

Q Miss Walsh, I'm showing you a document which has been marked as Defendant's Exhibit C.

Does the area depicted in that photograph look familiar?

Page 15

Page 17

Barbara Walsh 15  
when we travel. Probably an hour or two prior to the departure time.

Q How often do you travel internationally?

A We have traveled maybe five or six times internationally in the last ten years.

Q Do you recall where you have traveled those five or six times?

A We have been to Amsterdam before, we have been to Italy, we have been to Ireland, so that's Amsterdam twice, Italy, Ireland, Africa. There you go, five times.

Q The two trips you took to Amsterdam, your destination for the trip was Amsterdam, it wasn't a pass-through to somewhere else?

A No, the destination was to Amsterdam.

Q So how many times would you say you have been to Amsterdam Airport over the past ten years?

A Twice. Well, twice; one to travel, you know, and then the trip back, so four times inside the airport, twice to two different countries. One directly to the airport and one is a layover in between to Africa.

Barbara Walsh 17

A Yes.

Q For the record, what is that area?

A These chairs are part of the waiting area that we were in.

Q Are those the chairs that you sat in when you were in the waiting area?

A Yes.

Q Miss Walsh, who were you with when you sat in those chairs?

A Brian, my husband, and my friend, Jennifer Costabile.

Q Do you recall what the order of seating was when you were seated in those chairs?

A Well, I was in between Brian and Jennifer. I think Brian was on the end, myself, and then Jennifer.

Q Do you recall how long you were sitting in those chairs?

A Probably about an hour.

Q Do you recall any of you standing up or getting out of those chairs during that hour?

A Not that I remember.

Q Can you describe the area to the left of the picture that isn't in the photograph?



Page 18

Barbara Walsh 18

A There were more chairs. Just more of the waiting area.

Q Was there anything other than other chairs?

A Not that I remember.

Q Do you recall any signs for any airlines in that waiting area?

A No.

Q Just looking at the photograph that's in front of you, do you know what that dark area is to the right of the gentleman in the red shirt who is seated in the chairs?

A This (indicating)?

Q In front of him.

A Oh. You said to the right.

Q Well, to the right and in front of him.

A I thought that was part -- I thought that was just part of the wall.

Q Do you recall if there were any windows in the area?

A I think there might have been windows over to the left.

Q To the left of the photograph?

Page 19

Barbara Walsh 19

A Yes. Over here (indicating).

MR. MEENAGH: When you said to the right of him, you meant to his right as he was sitting in the photo?

MR. BANINO: Yes. And as she corrected me not only to the right but to the front of him.

Q Miss Walsh, do you recall about how many people were in that waiting area on average during that hour?

A Some.

Q Do you recall how many, approximately how many chairs there were in that area?

A No.

Q Do you recall seeing anybody in the area that did not look like a passenger on a flight?

A No.

I do recall -- I mean, well, I'm looking at this. This is a waiting area. I'm thinking there is four chairs here (indicating). I think there is a wall of chairs here (indicating).

Page 20

Barbara Walsh 20

I mean, I'm thinking. I don't know if I recall because I'm thinking four. There had to have been at least a dozen chairs there. There had to have been at least a dozen chairs for people to sit.

Q And do you recall if the chairs were in rows or if they were perpendicular to each other?

A I don't think they were in rows, okay? I don't think they were.

Q In the photograph it looks like there are hand carts or carts for baggage.

Did you use a baggage cart that morning?

A No.

Q Do you recall seeing those carts when you were seated there?

A I think so.

Q Do you recall about how many were there?

A No.

Q At some point did you get up from those chairs?

A We did.

Page 21

Barbara Walsh 21

Q Do you recall about how long prior to scheduled departure of flight that you got up from those chairs?

A Okay. So I have a question.

When you ask me that, my mind is thinking well, based on my experience of when airlines board, is that the way I'm supposed to answer the question, or am I supposed to think I remember specifically their calling us half an hour before, how am I supposed to answer that?

Q What you recall. I certainly wouldn't want you to guess, but if you can approximate, that's fine.

A Okay. Then I would say approximately half an hour before the airlines departed, or maybe forty-five minutes.

Q What caused you to get up from the chairs half an hour or forty-five minutes before?

A They announced that our flight was boarding.

Q Was this over an intercom?

A Yeah, I think so.

Q Did you actually see somebody telling you, or is it something you heard?

Page 22

Barbara Walsh 22

A I don't remember. I'm thinking -- I think I remember someone over here (indicating), I think I remember someone over here (indicating), you know, in charge of telling people, a counter.

Q Now, Miss Walsh, when you say "over here" and you're pointing, looking at the photograph, and this is just for the record, where is it that you're referring to?

A Okay. So it's behind these chairs (indicating).

Q So looking at the photograph to the right of the chairs?

A To the right of the chairs, yes.

Well, if I'm facing them this way, um-hm.

Q So you're referring to an area to the right of the passengers depicted on the right side of the photograph.

A Right.

MR. MEENAGH: Correct.

A It's in the back of the chairs really.

MR. MEENAGH: But it's not an area in the picture, it's off to the right of the photo?

Page 23

Barbara Walsh 23

A Yes.

Q You recall somebody being there?

A I think I do.

MR. MEENAGH: Well, you think you do or you do?

A I don't, I can't be definite.

Q Well, what makes you think that there was somebody there, just past experience or --

A Past experience, yes, because my experience is always that there is somebody at a gate who is going to announce that the plane is boarding, and take your boarding pass and escort you onto the plane, or, you know, stand by the runway or gateway.

Q Just so we are clear, I'm going to jump ahead to your actual flight back to New York.

A Right.

Q Did you come to this same waiting area for your other flight?

A I don't remember.

Q Do you recall ever coming back to this area after your husband fell?

A I don't remember.

So can I say something?

Page 24

Barbara Walsh 24

Q Certainly.

A Well, I'm thinking. I know what we did when we got up to board the plane, and we walked in a certain direction because we wouldn't have just walked in any direction, we would have walked in the direction of someone who had directed us to go that way, but that was the way that we were supposed to go to board the plane.

And in order for us to -- I know where we walked, I know where Brian and I walked to, so we had to have been directed that way by someone, or I guess an intercom; but, again, based on my past experience, there's usually a person.

That's why I said I think someone was over here (indicating), okay, because I know that that's the way we walked to when we were instructed to start boarding.

Q Okay.

A And we just didn't decide we were going to walk that way, we were instructed to go that way.

Q This is based on past experience?

A No.

Page 25

Barbara Walsh 25

Q Okay.

A No.

Q Okay.

A You mean the person or the direction we walked in?

Q Either one.

A No, the person may be past experience, not the direction we walked in.

Q So did somebody actually tell you to go to a particular location, or did you follow the other passengers?

A Someone told us to go to a particular area. It had to have been someone.

Q Well, do you actually recall somebody telling you that, or, I mean, I know you just said there had to have been someone.

Is that a guess, or is that you actually recall somebody telling you that?

A Yes.

Q What did that person look like?

A Oh, I don't remember that. I don't remember that.

Q Okay. Do you remember if it was a man or a woman?



Page 26

Page 28

26

28

Barbara Walsh

Barbara Walsh

A I think it was a woman.

Q Why not?

Q Where was she located?

A Because that's never been my experience.

A I -- over here (indicating).

Q Now, for the record, you're pointing to an area off the photograph but to the right of it; is that correct?

Why would somebody who works for the airport instruct me to board an airplane for another airline?

A Yes, yes.

Q What did this woman look like?

Q If a company was employed by the airport to do that type of work, could that have been the case here?

A I don't know.

Q Do you recall what she was wearing?

MR. MEENAGH: That's pretty speculative, isn't it.

A She had on blue, royal blue, a royal blue uniform.

A I don't know.

Q Do you recall what the uniform said?

Q Do you recall what color hair she had?

A I think it had KLM on it.

A No.

Q What makes you think that?

Q Do you recall how tall she was?

A Because we flew on KLM Airlines.

A No.

Q Did you actually see something that said KLM?

Q Do you recall if she was alone or with anybody else?

A I think I did.

A No.

Q Was she behind a desk?

Q Just generally, do you recall anything about her other than that she was a woman and that she was wearing blue?

A I don't remember.

Q But you recall that it says KLM on her uniform.

A No.

A I remember seeing people who worked

Q Do you recall if she was sitting or

Page 27

Page 29

27

29

Barbara Walsh

Barbara Walsh

for KLM wearing blue uniforms that had KLM on them.

standing?

Q These are other people you saw?

A Standing.

A Yes. But in this particular case there was -- I think there was.

Q You think there was what?

A A woman here who directed us to board the airplane who worked for KLM Airlines who had on a blue uniform.

Q And do you recall if she was behind a desk?

A I don't remember.

Q But you do remember a woman, you just don't remember when she --

A I, yes.

Q And what made you think that she worked for KLM?

A Because we were flying KLM Airlines. She had on a blue uniform and we were flying KLM airlines, so that's why I think she worked for them.

Q Could she have been with a company that works for the airport?

A No, that's --

Q Did you see anybody bump him or push him or touch him in any way?

A No.

Q Did you see anything else other than the bar that would have caused him to fall?

A No. He tripped on the bar.

Q Were you watching him the entire time from when you both got up from the seats to when

Page 30

1 Barbara Walsh 30  
 2 he fell?  
 3 A I was.  
 4 Q At what point did you see this woman  
 5 then that you just referred to?  
 6 A That was before.  
 7 Q Before --  
 8 A Well, when we were in the waiting  
 9 area, prior to even her having us board the  
 10 airplane, or calling us to board the airplane.  
 11 That was prior to that.  
 12 Q When was it?  
 13 A When we came into the waiting area  
 14 sometime while we were waiting. When she called  
 15 us to board the airplane. We could turn our heads  
 16 around and see her sitting down.  
 17 Q Was this after you were called to the  
 18 airplane?  
 19 A I saw her, I think I saw her prior to,  
 20 I mean, while we were waiting.  
 21 Q While you were seated?  
 22 A Yes, while we were seated.  
 23 Q So when did you see her directing  
 24 people?  
 25 A When she called for people to board

Page 31

1 Barbara Walsh 31  
 2 the airplane.  
 3 Q So this was prior to you getting up  
 4 out of your seat.  
 5 A Yes, because it was very quick once we  
 6 got up out of our seat.  
 7 As you can see --  
 8 MR. MEENAGH: No. No. You  
 9 answered the question.  
 10 A Okay.  
 11 Q Do you recall how long you looked at  
 12 this woman?  
 13 A No.  
 14 Q Was it a couple of seconds, was it a  
 15 minute?  
 16 A Maybe, I don't know, between a couple  
 17 of seconds and a minute.  
 18 Q And all this was while you were still  
 19 seated.  
 20 A Yes.  
 21 Q So in order to see her, I take it you  
 22 turned completely around in your seat?  
 23 A I could have just turned my head  
 24 around.  
 25 Q I'm sorry. That's what I mean.

Page 32

1 Barbara Walsh 32  
 2 You turned your head completely  
 3 around?  
 4 A Yes.  
 5 Q Do you recall seeing other passengers  
 6 between you and her?  
 7 A Yes.  
 8 Q By "passengers," I mean any  
 9 individual.  
 10 A Yes.  
 11 Q Do you recall seeing the carts between  
 12 you and her?  
 13 A I don't recall that.  
 14 Q Do you recall those individuals who  
 15 were between you and this woman having baggage?  
 16 A No.  
 17 Q No, you don't recall, or no, they  
 18 didn't?  
 19 A No, I don't recall.  
 20 Q So in order to see this woman, you had  
 21 to look over the back of the seats in the  
 22 photograph, that would be to the right of the  
 23 seats in relation to this photograph.  
 24 A Right.  
 25 Q Now, from the time that you got up

Page 33

1 Barbara Walsh 33  
 2 from the seats and your husband fell, do you  
 3 recall saying anything to him?  
 4 A No.  
 5 Q Do you recall him saying anything to  
 6 anybody?  
 7 A No.  
 8 Q Do you recall whether your husband  
 9 fell into anybody when he tripped?  
 10 A He didn't.  
 11 Q I take it you did not fall.  
 12 A No.  
 13 Q Did you see anybody else fall?  
 14 A No.  
 15 Q The time period I mean is both before  
 16 and after your husband fell.  
 17 In the entire time that you were in  
 18 this area, did you see anybody else fall?  
 19 A No.  
 20 Q Now, after your husband fell, do you  
 21 recall about how long it was until somebody came  
 22 to help him? Other than you, of course.  
 23 A It was awhile. Let's see. Almost  
 24 immediately there was a young man who I -- he  
 25 might, I don't know, he worked -- I don't know who

Page 34

Page 36

Barbara Walsh 34  
he worked for but he was an employee of someone,  
he wasn't a passenger, came over.

We were trying to get some help. It  
took a really long time. It took a really long  
time.

In the meantime, we were concerned  
about missing our flight, so we were trying to  
decide what to do, but it took a long time.

Q When you saw "a long time," are you  
referring to minutes, hours, can you approximate  
how long it was?

A That --

MR. MEENAGH: Wait for what now?

MR. BANINO: She said it was a  
long time for somebody to come help  
them.

MR. MEENAGH: Other than this  
young man, is that what you're talking  
about?

MR. BANINO: Yes.

A Yes. Okay. So yeah, I would say  
twenty minutes.

Q Twenty minutes?

A A half an hour maybe.

Page 35

Barbara Walsh 35  
Q And during that twenty minutes or  
half an hour, what were you and your husband  
doing?

A Oh, so he was flat on his stomach. He  
had fallen on his elbow.

Well, he turned to sit up, he was  
sitting now, trying to get -- I think we were  
trying to get one of those carts to come, trying  
to find out where the first-aid was, trying to  
find out if there was a doctor, and in addition  
trying, you know, asking, trying to find out what  
we were going to do about our flight.

Plus deciding if Jennifer, this third  
person, was going to get on the airplane, and in  
fact they didn't hold the flight. Then we had to  
decide if she was going to go home or not.

Q How did you -- just to break it down,  
how did you try to get a cart?

A I think the young man who was helping  
us, I think he had a walkie-talkie.

I think I actually went looking,  
because it wasn't happening, and he was in a lot  
of pain, and it was a big deal, and, you know, I  
think I went and tried to find someone. I think

Barbara Walsh 36  
by the time I came -- that's how I went to try to  
find.

Q Did you actually find someone?

A I think by the time I got back,  
somebody had come, a cart had come. I think.

Q About how long after he fell did that  
cart arrive, approximately?

A Twenty minutes, half an hour.

Q Do you recall how long it was after  
this young man came to assist you?

A That the cart came?

Q Yes.

A About that time. I thought that was  
the question you were asking me.

Q So the first person who came to assist  
you was this young man in a cart.

A Not in a cart, no, he was walking.

Q But when he arrived, around the same  
time the cart arrived?

A No, no, it didn't.

Q Who was the first person to come  
assist you?

A This young man.

Q Which I believe you said was twenty

Page 37

Barbara Walsh 37  
minutes or half an hour after.

A No, that was right away. That was  
right away.

Q Do you recall seeing this young man  
before the incident?

A No.

Q Do you recall what he looked like?

A He had black clothes on, I think he  
was fairly young, and I think he had a pretty big  
stomach.

Q Now when you say "black clothes,"  
could you just describe what you mean?

A Black trousers, black shirt, or maybe  
a sweater, a black sweater. It was a uniform of  
sorts.

Q Do you recall whether it said anything  
on his uniform?

A No.

Q No, you don't recall, or no it didn't  
say anything?

A I don't recall.

Q Do you recall how quickly or how long  
it took for him to get to you?

A A couple of minutes.

Page 38

1 Barbara Walsh 38  
 2 Q So your husband was on the ground for  
 3 a couple of minutes?  
 4 A Yes.  
 5 Q And then this young man came to assist  
 6 you.  
 7 A Yes.  
 8 Q Other than the young man and whoever  
 9 was operating the cart which you said arrived  
 10 twenty or thirty minutes later, did anyone else  
 11 assist you?  
 12 A I don't remember. I think there was  
 13 someone else. I think there was a woman in a  
 14 black outfit, I think. I think she had a skirt on  
 15 but I don't remember, I'm not sure.  
 16 Q Well, do you recall if this woman  
 17 arrived after the cart?  
 18 A No, she didn't, because I think as  
 19 soon as the cart came, they took him to first-aid.  
 20 Q How many people were in the cart when  
 21 it arrived?  
 22 A I don't know.  
 23 Q Do you recall there being more than  
 24 just a driver --  
 25 A I don't.

Page 39

1 Barbara Walsh 39  
 2 Q -- other than the three of you  
 3 yourselves?  
 4 Did you speak to anybody else about  
 5 the incident other than the young man and whoever  
 6 was in the cart, and if there was or was not this  
 7 woman who may have come later, was there anybody  
 8 else who you spoke to about this incident at that  
 9 time?  
 10 A I did, because I remember now going to  
 11 talk to -- I went and talked to -- I went and  
 12 talked about holding the plane.  
 13 Q With whom?  
 14 A Other women. I think there were a  
 15 couple of other women who were closer to where  
 16 people were getting on the airplane, but it was,  
 17 you know, nobody was paying us much attention,  
 18 and I don't know, I naively thought they would  
 19 hold this airplane. It wasn't smart thinking.  
 20 They couldn't hold the airplane.  
 21 We didn't realize how serious it was.  
 22 You know, I thought maybe we were going to get on  
 23 the airplane, I guess, but I certainly didn't want  
 24 it to take off before they knew that we weren't on  
 25 it, and it was because he had an injury, so I was

Page 40

1 Barbara Walsh 40  
 2 trying to get us somebody to pay us attention, at  
 3 least acknowledge the fact you're not going to  
 4 hold it, what the deal is.  
 5 Like I said, nobody was paying us much  
 6 attention, so I think I may have gone to someone  
 7 and didn't get any satisfaction so I was trying to  
 8 find out what could be done. I was trying to get  
 9 somebody to acknowledge what was going on.  
 10 Q And about how long after your husband  
 11 fell was this that you were talking to someone  
 12 about holding the flight?  
 13 A Not that long because, you know --  
 14 MR. MEENAGH: Just answer the  
 15 question.  
 16 A Okay. Maybe fifteen minutes, maybe  
 17 ten minutes.  
 18 Q And do you recall approximately how  
 19 many people you spoke to about this?  
 20 A Two women, maybe.  
 21 Q Where were these two women?  
 22 A I don't remember. They were behind a  
 23 counter. I don't know if they were -- they  
 24 weren't at this gate, they were at a different  
 25 gate, they were in a different area.

Page 41

1 Barbara Walsh 41  
 2 I just started to walk around to --  
 3 again, they had on a blue outfit, so I knew they  
 4 worked for KLM, and I was just trying to -- I  
 5 think it may have been another gate. They were  
 6 behind a counter. There were a lot of people  
 7 around in the airport.  
 8 Q Do you recall how far you had to walk  
 9 to talk to these two women?  
 10 A Not that far but far enough. Not that  
 11 far.  
 12 Q Well, do you recall if it was a  
 13 hundred yards, ten yards --  
 14 A Let's see.  
 15 Q -- four hundred yards?  
 16 A Twenty, twenty yards.  
 17 Q And do you recall what these two women  
 18 looked like?  
 19 A I think they looked nice. One might  
 20 have had blonde hair.  
 21 Q Do you recall if they were wearing  
 22 name tags?  
 23 A No.  
 24 Q No, you don't recall, or no, they were  
 25 not wearing name tags?



Page 42

Barbara Walsh 42

A No, I don't recall.

Q Did anyone from KLM as far as you know assist your husband while he was on the ground?

A As far as I know, no.

Q Did you accompany your husband to the medical clinic in the airport?

A Not when he first went. Not when he first went. I then joined him because --

MR. MEENAGH: Just answer his question. Okay, Barbara?

A Okay. No, not when he first went.

Q When did you accompany your husband to the medical clinic?

A I went and found him. I went after I think I was still dealing with trying to find out if the airplane was going to take off.

Q How long were you trying to figure out what was going on with the aircraft?

A Okay. So half an hour, not that long. Ten minutes maybe, fifteen minutes.

Q Was there anybody closer than these two women that you saw that could assist you with the flight?

A No.

Page 43

Barbara Walsh 43

Q How did you know where to go to the medical clinic?

A I asked people.

Q Who did you ask?

A I don't remember. I know I asked people because I didn't know where it was. People who I thought could tell me.

Q What made you think that they could tell you?

A Probably people who worked in the airport. Maybe people in uniforms who might know where it is, where it was.

Q I believe you said you walked to the clinic; is that correct?

A Yes.

Q Do you recall about how long either time or distance-wise the clinic was from where you were?

A Ten minutes, not quite. I walk fast. Ten minutes.

Q Was your husband holding anything when he fell?

A I think he had -- oh, he had a backpack on his shoulder probably.

Page 44

Barbara Walsh 44

Q Anything else?

A Not that I recall.

Q Do you recall if he was holding the backpack at all with his hand, or if his hand was free?

A I think the backpack was hanging on his shoulder.

Q But do you recall if he had his hand on the backpack?

A No, I don't recall.

Q Just for clarity, the bar that we are referring to that he fell over is the same bar that is depicted in the --

MR. MEENAGH: Defendant's C?

Q -- photograph in front of you, which is marked as Defendant's Exhibit C?

A Yes.

Q Miss Walsh, do you know who took this photograph?

A Yes.

Q Who took this photograph?

A Carol McGowan.

Q Why did Miss McGowan take this photograph?

Page 45

Barbara Walsh 45

A I called her and asked her to.

Q And why did you ask her to?

A Because we wanted a picture of the bar that he had tripped over. We wanted a picture of the -- we wanted a picture of the area.

Q And why did you want a picture of the area?

A Because we wanted to see how it had happened. We wanted to have a clear picture of how it had happened.

Q Did you remember the event?

A At this --

Q When you asked her to take the photograph?

A Absolutely. She was still in Amsterdam.

Q Okay.

A It was within a few days that I called her.

Q And you said you wanted it because you wanted a clearer picture of what happened?

A Yes. I wanted to have -- I thought there might have been negligence involved and I wanted to have a photograph of it.

Page 46

Barbara Walsh 46

Q Negligence on whose part?

A I'm not sure.

MR. MEENAGH: That's a legal question.

How does she know that?

A I'm not sure.

MR. MEENAGH: You answered.

A I'm --

MR. MEENAGH: You answered it. That's fine.

Q Miss Walsh, did your husband receive any medical attention after the attention he received at the airport clinic?

A Yes. We went to an emergency room.

Q Was that emergency room off airport property?

A Yes.

Q Do you recall the name of the hospital or emergency room that you went to?

A No. The word "Schiphol" is in the name of the airport. That might have been attached to the name of the hospital.

It's part of -- I don't know. It's connected to the -- something connected to the

Page 47

Barbara Walsh 47

City of Amsterdam. I'm not sure but I vaguely remember that.

Q Do you have any documents from this hospital or emergency room?

A I probably do at home.

MR. BANINO: Mr. Meenagh, we ask that that be produced.

MR. MEENAGH: We will make a search.

(REQUEST)

Q Did you go straight from the medical clinic to the hospital?

A Yes.

Q From the time that your husband fell to when you went to the medical clinic to join him, who did you speak to about this incident?

A People who worked for the airline.

Q The two women?

A Yes. My friend, Jennifer, I think that's who I spoke to.

Q And I take it you spoke to the young man who came to assist you who was wearing black.

A Right, yes.

Q Was there anybody else?

Page 48

Barbara Walsh 48

A Not that I recall.

Q Did you see anybody taking notes or writing anything as you were talking to them?

A No, no, I didn't see anybody doing that.

Q Did you, yourself, fill out any forms describing the incident that day, not only during that period I just mentioned, but also when you returned to the airport later?

A I seem to recall Brian's filling out forms.

Q Do you recall when that was?

A When we went back to the airport. I think when we were waiting for our flight.

Q This was, for clarity sake, after you went to the hospital before you departed for New York.

A Right. Right.

Q And how did he come into possession of a form to write on?

A When he went to the clinic, I think they told him, I think I remember their telling him he needed to fill out an accident report, but I don't think he took the time to do it then

Page 49

Barbara Walsh 49

because we needed to go to the hospital, so I think we did that when we came back.

Q And where did you go to fill out that form?

A We went to a KLM counter.

Q Continue.

A Or he may have gotten that form from the clinic, from the first-aid station, from the doctor's office.

I remember there being a form, I remember his telling me he had to fill out a form, and I don't remember if he got it then or if we got the form when we came back, but there was paperwork, I remember that.

Q Do you recall seeing that form anytime from when you were in the clinic to when you returned to the airport?

A I don't remember. I don't remember if it was then that I saw it or when we came back and then he got it.

Q Do you recall who you gave that form to, and by "you," I mean you and your husband?

A I think we brought it back to the clinic.



Page 50

1 Barbara Walsh 50  
 2 Q Did the clinic give you a copy of that  
 3 form?  
 4 A I don't remember.  
 5 Q Do you recall if it was the type of  
 6 form where you write on it and there are multiple  
 7 copies made at the same time?  
 8 A I don't think so.  
 9 Q Do you recall looking at the form  
 10 either during or after your husband filled it  
 11 out?  
 12 A I think I looked at it.  
 13 Q Did you talk to him about any  
 14 information that you were putting on the form,  
 15 and by "you," I mean that he was putting on the  
 16 form?  
 17 A No.  
 18 Q Do you recall seeing any headings on  
 19 top of the form?  
 20 A No.  
 21 Q Did you have any other discussions  
 22 with anybody regarding the incident from when you  
 23 returned to the airport and when you departed the  
 24 airport for New York?  
 25 A You mean in the airport, or perhaps on

Page 51

1 Barbara Walsh 51  
 2 a telephone?  
 3 Q Either one.  
 4 A Well, I probably called somebody at  
 5 home to tell them that we weren't arriving when we  
 6 were supposed to.  
 7 Q Do you recall who you called?  
 8 A I probably called my daughter.  
 9 Q What is your daughter's name?  
 10 A Erin, Erin MacDonald.  
 11 Q Do you recall what you said to her?  
 12 A Told her what had happened, that we  
 13 missed our flight, that her father had fallen and  
 14 we missed our flight, and we'd be home on a later  
 15 plane.  
 16 Q Was she picking you up at the airport?  
 17 A No, I think we had parked our car. I  
 18 think. I don't remember.  
 19 Q Other than that phone call, did you  
 20 speak to anybody else about the incident during  
 21 that time I just mentioned?  
 22 A Jennifer, our friend.  
 23 Q Is there anybody else that you spoke  
 24 to?  
 25 A Not that I remember.

Page 52

1 Barbara Walsh 52  
 2 Q While you were in the waiting area  
 3 both before and after your husband's fall, was  
 4 there anybody else in that area that you knew  
 5 other than your husband and Jennifer?  
 6 A No.  
 7 Q So at no time did you see anybody  
 8 else in that waiting area that you knew other  
 9 than Jennifer and your husband.  
 10 A No.  
 11 Q Do you recall paying any money for  
 12 the medical treatment that you received either at  
 13 the airport clinic or at the hospital in  
 14 Amsterdam?  
 15 A We did pay for the treatment at the  
 16 hospital in Amsterdam.  
 17 Q And do you recall what that amount  
 18 was?  
 19 A I think it was -- I don't know.  
 20 Maybe -- I'm thinking two hundred and then I'm  
 21 thinking five hundred.  
 22 MR. MEENAGH: Do you know?  
 23 A I don't.  
 24 MR. MEENAGH: Okay.  
 25 A It was in the hundreds.

Page 53

1 Barbara Walsh 53  
 2 Q How did you pay for that?  
 3 A Credit card.  
 4 Q Do you have receipts from that  
 5 transaction?  
 6 A At home.  
 7 MR. BANINO: John, we ask that  
 8 that be produced.  
 9 MR. MEENAGH: We will make a  
 10 search.  
 11 (REQUEST)  
 12 Q Did you pay for anything else during  
 13 that day in connection with your husband's fall?  
 14 A Taxicab.  
 15 Q When you say "taxicab," which ride are  
 16 you referring to?  
 17 A We had to take a taxi to the hospital  
 18 and we had to take a taxi back to the airport.  
 19 Q Do you recall about how much that  
 20 was?  
 21 A Ten dollars each way, I think?  
 22 Q Do you recall how you paid for that?  
 23 A With cash, with -- it wasn't a credit  
 24 card.  
 25 Q Do you have any receipts

Page 54

Page 56

1 Barbara Walsh 54  
 2 substantiating that payment?  
 3 A No.  
 4 Q Do you have any documents showing  
 5 anything about your flight from Amsterdam to  
 6 New York after it was changed, and by that I mean  
 7 any boarding passes, any ticket stubs, any ticket  
 8 coupons?  
 9 A No.  
 10 Q Were you given new boarding passes to  
 11 get on that second flight?  
 12 A I want to say yes.  
 13 Q Is that because you recall receiving  
 14 that, or because you are basing that on  
 15 experience?  
 16 A I'm basing that on experience.  
 17 Q I'm sorry if I'm repeating this  
 18 question, but when you returned for that second  
 19 flight, you went to a different waiting area?  
 20 A I don't remember.  
 21 Q Do you recall if it was a similar  
 22 waiting area, if it was different?  
 23 A I don't remember.  
 24 Q When you returned for your second  
 25 flight, do you remember at some point sitting

1 Barbara Walsh 56  
 2 fell, did you pass through security at all?  
 3 A I don't think so.  
 4 Q Did you have any problems on the new  
 5 flight that you took from Amsterdam to New York?  
 6 A What kind of problems would you be  
 7 referring to?  
 8 Q I don't know, any problem, any  
 9 injury?  
 10 A No.  
 11 Q Miss Walsh, other than your husband's  
 12 medical bills and other I guess medical treatment,  
 13 did you expend any other money in connection with  
 14 this incident?  
 15 A No.  
 16 Q Did you miss any work as a result of  
 17 this incident?  
 18 A No.  
 19 Q What is your current employment?  
 20 A I'm a teacher in New York City.  
 21 Q Are there any things that you are not  
 22 able to do that you were able to do before this  
 23 incident involving your husband?  
 24 A Me, personally?  
 25 Q Yes, you, personally.

Page 55

Page 57

1 Barbara Walsh 55  
 2 down and waiting for that flight to depart?  
 3 A I don't remember.  
 4 Q Do you remember anything about your  
 5 second flight?  
 6 A I got to fly in first class.  
 7 Q That's very nice.  
 8 A Um-hm.  
 9 Q Did you pay anything for the upgrade  
 10 to first class?  
 11 A No. It was a jumbo jet. I had never  
 12 flown on one.  
 13 Q Do you recall whether the departure of  
 14 that night was anywhere near the departure of the  
 15 earlier flight?  
 16 A I don't remember.  
 17 Q Do you remember getting on the  
 18 aircraft --  
 19 A Yes.  
 20 Q -- for the second flight?  
 21 Do you remember passing through  
 22 security to get onto the aircraft?  
 23 A I don't remember that.  
 24 Q In between the time that you landed  
 25 from Nairobi to Amsterdam to when your husband

1 Barbara Walsh 57  
 2 A No.  
 3 Q Is there anything that's changed about  
 4 your life since your husband fell?  
 5 A No.  
 6 Q I'm showing you a document which has  
 7 been marked as Defendant's Exhibit I.  
 8 (Whereupon, the witness reviews  
 9 document.)  
 10 Q Have you seen this document before?  
 11 A No.  
 12 Q After the day of the accident, did  
 13 you or your husband ever make any written  
 14 statements or send any letters or fill out any  
 15 claim forms or anything in connection with this  
 16 incident?  
 17 A I wrote a letter, I wrote a letter to  
 18 KLM.  
 19 Q Do you have a copy of that letter?  
 20 A I don't. I can't find it. I can't  
 21 find it.  
 22 MR. MEENAGH: Okay. You answered.  
 23 Q What makes you think it was sent to  
 24 KLM?  
 25 A Because I wrote the letter and I wrote

Page 58

1 Barbara Walsh 58  
2 them a letter to tell them what happened. I was  
3 upset about the way that we -- the way that it  
4 was handled in the airport.

5 Q And by "it was handled," the way what  
6 was handled?

7 A The length of time it took, I thought  
8 people were rude, I thought they ignored us,  
9 they -- like I said, they didn't seem to think it  
10 was a big deal.

11 The way -- they didn't have what they  
12 needed to treat my husband medically. They didn't  
13 have a stent to keep his elbow secure. That's why  
14 they had to send us to an emergency room.

15 Q When you refer to not having a stent,  
16 who were you referring to?

17 A Right. That would have been -- I  
18 guess as a result of the accident, you know, we  
19 had to go to the emergency room. That would have  
20 been the airport; but, you know, initially the way  
21 that it was handled.

22 Mostly it was about, you know, the  
23 attitude that we were given when I was so  
24 concerned about whether or not we were going to  
5 make the flight. I felt we were being dismissed.

Page 59

1 Barbara Walsh 59

2 Q Just for clarity, because I'm not  
3 sure you actually answered it, but what were you  
4 referring to when you said they did not have a  
5 stent?

6 A The clinic at the airport.

7 Q Okay. You mentioned somebody was  
8 rude.

9 Who was rude to you?

10 A The women, the two women I referred  
11 to, one of whom I think I said was a blonde.

12 Q This is the two women who re-booked  
13 your flight?

14 A No, they didn't re-book the flight  
15 yet. I was just trying to get them to tell me  
16 how long they would hold the plane, if they would  
17 hold the plane, how much time we had to decide,  
18 if my friend should -- because she wasn't really  
19 directly affected, if she should get on the  
20 airplane, if they would re-book her flight.

21 Q When you were having this discussion  
22 with these two women, did they tell you that an  
23 airline is not able to hold a flight, or that KLM  
24 was not able to hold the flight?

25 A Did they tell me that. I don't

Page 60

1 Barbara Walsh 60  
2 remember.

3 Q Did they give you any reason as to  
4 why the flight could not be held?

5 A No. No. I guess --

6 MR. MEENAGH: No. No.

7 A No.

8 MR. MEENAGH: Just answer his  
9 question.

10 A No.

11 Q And you said, I believe, and please  
12 correct me if I'm wrong, that somebody ignored  
13 you.

14 Who ignored you?

15 A I felt those two women were ignoring  
16 us, me.

17 Q And what did they do or say that made  
18 you think that they were ignoring you?

19 A I wanted them to stop what they were  
20 doing and look at me and listen to what I was  
21 saying, and they were not giving me any attention  
22 at all, and I felt dismissed.

23 Q I believe you testified to this before  
24 but I could be wrong.

25 How long did you talk to these two

Page 61

1 Barbara Walsh 61  
2 women?

3 A I think I left and went back to them.  
4 I think I may have come, I think I may have left.  
5 I think Brian at this point hadn't been taken away  
6 yet.

7 I think I went back to check on Brian  
8 and then went back to talk to them more than  
9 once.

10 Q So other than those items that you  
11 mentioned before, was there anything else that  
12 you recall about your letter that you said that  
13 you wrote to KLM?

14 A How badly Brian had been hurt.

15 Q Did you send a letter or speak to  
16 anyone else, either KLM or any other company,  
17 about this incident?

18 A I think I sent a copy to Grand Circle  
19 Travel.

20 Q Do you recall sending it to a  
21 particular person at Grand Circle Travel?

22 A No. I didn't have a name. I don't  
23 think I did. I could have called and gotten a  
24 name. I don't remember.

25 Q Did KLM send you a response?

Page 62

Page 64

Barbara Walsh 62

A They did.

Q Do you have a copy of that letter?

A I don't.

Q Was it a letter or was it a phone call?

A No, it was a letter.

Q You don't have a copy of that letter?

A No.

Q Do you recall when you received that letter?

A A while after, because we didn't hear for such a long time, but we did get a response.

Q Do you recall what the response said?

A Acknowledged receipt of my letter, apologized for what had happened, offered sympathy, that's all I remember.

MR. MEENAGH: I'm going to ask that another search be made by you for KLM to see if that letter can be produced.

MR. BANINO: I ask that you similarly make a search for such a letter.

MR. MEENAGH: I think the witness

Barbara Walsh 64

Q Yes.

A No.

Q Did you speak to anybody at the airport authority at any time after you returned to the airport for your return flight to New York?

A I think when we got back, we still had to make arrangements for our return flight. We didn't take time to do that. We went right to the hospital.

MR. MEENAGH: He's asking have you spoken to anybody from the airport when you came back.

Q The airport authority, the Amsterdam airport.

A No, I don't think so.

Q Do you know if your husband spoke to anybody at the airport authority after you arrived back at the airport?

A I don't think so.

Q Do you know if your husband either spoke or wrote a letter to either KLM or the Amsterdam airport authority after that day?

A No, I wrote a letter, he didn't.

Page 63

Page 65

Barbara Walsh 63

just said she can't find it, but I think that indicates there was a search, but we will certainly make sure we have diligently looked.

MR. BANINO: Okay.

(REQUEST)

Q Did you speak or send a letter to any other companies about this incident?

MR. MEENAGH: I think she said she sent a copy to the other travel agent.

You mean besides that?

A What happened was, I submitted the hospital bill to my insurance company, and there was a big question about their paying it, so I don't know if it was a letter or further communication with our insurance companies, and they did pay it, they eventually reimbursed us for that, for what we had spent at the hospital.

Q Did you ever write a letter or speak to anybody at the airport authority regarding this incident, and by "the airport authority," I'm talking about the one in Amsterdam?

A After we got back?

Barbara Walsh 65

Q Did you or your husband at any time from the moment he fell call anyone at the airport authority about the incident?

A I don't think so.

MR. BANINO: Now might be a good time to take a five-minute break.

(Whereupon, a brief recess was taken.)

Q Miss Walsh, I'm showing you a document which is being marked as N.

(Whereupon, Complaint was marked Defendant's Exhibit N for Identification, as of this date, by the reporter.)

Q Read it, take a look at it, take your time.

(Whereupon, the witness reviews document.)

Q Have you had an opportunity to read it?

A Sure.

Are you going to ask questions about it?

Q I am, yes.

Page 66

1 Barbara Walsh 66  
 2 A All right.  
 3 (Whereupon, the witness reviews  
 4 document.)  
 5 A Okay.  
 6 Q Miss Walsh, the text of what's in  
 7 Exhibit N, does that text look familiar to you?  
 8 MR. MEENAGH: You mean as far as  
 9 the content or --  
 10 MR. BANINO: The content.  
 11 A Yes.  
 12 Q Why does that look familiar to you?  
 13 A Because it's what happened, because  
 14 it's about my husband's accident.  
 15 Q Do you know if you or your husband are  
 16 the source of this text?  
 17 I'm not saying you typed this, but  
 18 I'm just asking whether you or your husband  
 19 provided the information for this at the time, if  
 20 you know.  
 21 A I don't know. I didn't.  
 22 Q Okay.  
 23 A I don't know if he did.  
 24 MR. BANINO: I have no further  
 25 questions.

Page 67

1 Barbara Walsh 67  
 2 MR. MEENAGH: Okay.  
 3 MR. BANINO: Thank you.  
 4  
 5 (Time noted: 4:05 p.m.)  
 6  
 7  
 8  
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Page 68

1 68  
 2 ACKNOWLEDGMENT  
 3  
 4 STATE OF NEW YORK )  
 5 ss:  
 6 COUNTY OF DUTCHESS)  
 7  
 8

9 I, BARBARA WALSH, hereby certify that I have  
 10 read the transcript of my testimony taken under oath  
 11 in my deposition of January 7, 2010; that the  
 12 transcript is a true, complete, and correct record of  
 13 what was asked, answered, and said during this  
 14 deposition, and that the answers on the record as  
 15 given by me are true and correct.  
 16

17 \_\_\_\_\_  
 18 BARBARA WALSH  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Subscribed and sworn to  
 before me this \_\_\_\_\_ day  
 of \_\_\_\_\_, 2010.

\_\_\_\_\_  
 NOTARY PUBLIC

Page 69

1 69  
 2  
 3 INDEX  
 4  
 5 WITNESS EXAMINATION BY PAGE  
 6 BARBARA WALSH MR. BANINO 4  
 7

8 EXHIBITS  
 9 PLAINTIFF'S EXHIBITS  
 10 FOR IDENTIFICATION PAGE  
 11 K Itinerary 6  
 12 L Brian Walsh's treatment 8  
 13 documents  
 14 M Statement 8  
 15 N Complaint 65  
 16 DOCUMENT REQUESTS: PAGE LINE  
 17 Documents from hospital or 47 11  
 18 emergency room  
 19 Receipts for treatment at 53 11  
 20 hospital in Amsterdam  
 21 Letter written to KLM 63 7  
 22  
 23  
 24  
 25



Page 70

1 70  
2 CERTIFICATE  
3

4 STATE OF NEW YORK )

5 ss:

6 COUNTY OF WESTCHESTER)  
7

8 I, CHERYL THOMPSON, a Shorthand Reporter and  
9 Notary Public in and for the State of New York, do  
10 hereby certify:

11 That the testimony of BARBARA WALSH was held  
12 before me at the aforesaid time and place.

13 That said witness was duly sworn before the  
14 commencement of the testimony, and that the testimony  
15 was taken stenographically by me and is a true and  
16 accurate transcription of my stenographic notes.

17 I further certify that I am not related to any of  
18 the parties to the action by blood or marriage, and  
19 that I am in no way interested in the outcome of this  
20 matter.

21 IN WITNESS WHEREOF, I have hereunto set my hand  
22 this 11th day of January 2010.  
23

24 \_\_\_\_\_  
25 CHERYL THOMPSON

Page 71

1 71  
2 ERRATA SHEET  
3

4 DEPOSITION OF BARBARA WALSH  
5 RE: WALSH V. KLM  
6 DATE TAKEN: JANUARY 8, 2010

7 PAGE LINE # CORRECTION REASON  
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22 \_\_\_\_\_  
23 BARBARA WALSH

24 Subscribed and sworn to  
25 before me this \_\_\_\_ day  
of \_\_\_\_\_, 2010.

\_\_\_\_\_  
NOTARY PUBLIC



# WORD INDEX

<b>A</b>	15:12,14,15,17,19 45:17 47:2 52:14,16 54:5 55:25 56:5 63:24 64:15,24 69:19 <b>announce</b> 23:12 <b>announced</b> 21:20 <b>answer</b> 4:23 21:9,11 40:14 42:10 60:8 <b>answered</b> 31:9 46:8 46:10 57:22 59:3 68:12 <b>answers</b> 5:2,6 68:13 <b>anybody</b> 19:17 28:19 29:18 33:6,9,13,18 39:4,7 42:22 47:25 48:3,5 50:22 51:20 51:23 52:4,7 63:22 64:4,13,19 <b>anytime</b> 49:16 <b>apologized</b> 62:16 <b>approximate</b> 21:13 34:11 <b>approximately</b> 10:4 11:18,21 19:14 21:15 36:8 40:18 <b>area</b> 16:11,13,24 17:3 17:5,7,24 18:3,8,11 18:22 19:11,15,18 19:22 22:17,23 23:19,23 25:14 26:6 30:9,13 33:18 40:25 45:6,8 52:2,4,8 54:19,22 <b>arrangements</b> 64:9 <b>arrive</b> 36:8 <b>arrived</b> 11:19 12:7,13 12:14,19 13:8 14:17 36:19,20 38:9,17,21 64:19 <b>arriving</b> 12:15 51:5 <b>Aside</b> 10:19 <b>asked</b> 7:14 43:4,6 45:2,14 68:12 <b>asking</b> 4:22 11:10 35:12 36:15 64:12 66:18 <b>assist</b> 36:11,16,23 38:5,11 42:4,23 47:23 <b>attached</b> 46:23 <b>attention</b> 39:17 40:2 40:6 46:13,13 60:21 <b>attitude</b> 58:23 <b>attorney</b> 4:16,21	<b>attorneys</b> 2:5,10 3:4 <b>authority</b> 63:22,23 64:5,15,19,24 65:4 <b>authorized</b> 3:8 <b>average</b> 19:11 <b>awhile</b> 33:23 <b>a/k/a</b> 1:7	<b>B</b> <b>B</b> 69:7 <b>back</b> 13:2 14:2 15:22 22:22 23:17,22 32:21 36:5 48:14 49:3,14,20,24 53:18 61:3,7,8 63:25 64:8 64:14,20 <b>backpack</b> 43:25 44:5 44:7,10 <b>badly</b> 61:14 <b>bag</b> 29:8 <b>baggage</b> 20:13,14 32:15 <b>Banino</b> 2:13 4:8,16 6:19,25 8:2,21 16:6 19:7 34:15,21 47:7 53:7 62:22 63:6 65:6 66:10,24 67:3 69:5 <b>bar</b> 29:9,22,23 44:12 44:13 45:5 <b>Barbara</b> 1:4,14 4:2 4:10 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1,11 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:8,16 69:5 70:11 71:3,21 <b>Bart</b> 4:16 <b>BARTHOLOMEW</b> 2:13 <b>based</b> 21:7 24:14,24 <b>basing</b> 54:14,16 <b>believe</b> 36:25 43:14	60:11,23 <b>best</b> 4:23 16:17 <b>big</b> 35:24 37:10 58:10 63:16 <b>bill</b> 63:15 <b>bills</b> 56:12 <b>black</b> 37:9,12,14,14 37:15 38:14 47:23 <b>blonde</b> 41:20 59:11 <b>blood</b> 70:18 <b>blue</b> 26:12,12,13 27:2 27:10,20 28:23 41:3 <b>board</b> 21:8 24:4,9 27:8 28:6 30:9,10 30:15,25 <b>boarding</b> 21:21 23:13 23:13 24:19 54:7,10 <b>Box</b> 2:6 <b>break</b> 5:11 35:18 65:7 <b>breakfast</b> 10:22 <b>Brian</b> 1:4 7:13 8:4,25 9:6 13:22 17:11,15 17:16 24:11 29:6 61:5,7,14 69:11 <b>Brian's</b> 8:15 48:11 <b>brief</b> 65:8 <b>brought</b> 49:24 <b>bump</b> 29:15,18	<b>chairs</b> 16:14,15,19,20 17:4,6,10,14,19,22 18:2,5,13 19:15,23 19:24 20:4,5,7,24 21:4,19 22:10,13,14 22:22 29:5 <b>changed</b> 54:6 57:3 <b>charge</b> 22:5 <b>check</b> 61:7 <b>Chelsea</b> 4:13 <b>Cheryl</b> 1:16 70:8,24 <b>Circle</b> 6:14 7:14 61:18,21 <b>City</b> 47:2 56:20 <b>Civ</b> 1:6,6 <b>claim</b> 57:15 <b>clarity</b> 44:12 48:16 59:2 <b>class</b> 55:6,10 <b>clear</b> 23:16 29:12 45:10 <b>clearer</b> 45:22 <b>clinic</b> 42:7,14 43:3,15 43:18 46:14 47:13 47:16 48:22 49:9,17 49:25 50:2 52:13 59:6 <b>closer</b> 39:15 42:22 <b>clothes</b> 37:9,12 <b>color</b> 28:14 <b>come</b> 7:11 9:4 13:4 23:19 34:16 35:9 36:6,6,22 39:7 48:20 61:4 <b>coming</b> 23:22 <b>commencement</b> 70:14 <b>communication</b> 63:18 <b>companies</b> 63:9,18 <b>company</b> 27:23 28:8 61:16 63:15 <b>Complaint</b> 65:12 69:14 <b>complete</b> 68:11 <b>completely</b> 31:22 32:2 <b>concerned</b> 34:7 58:24 <b>Condon</b> 2:10 4:16 <b>connected</b> 46:25,25 <b>connection</b> 53:13 56:13 57:15 <b>contact</b> 7:15 <b>contacted</b> 7:13 <b>content</b> 66:9,10
----------	---	--	--	--	---

<p><b>Continue</b> 49:7  <b>copies</b> 50:7  <b>copy</b> 5:15 50:2 57:19  61:18 62:3,8 63:11  <b>correct</b> 22:21 26:7  43:15 60:12 68:11  68:14  <b>corrected</b> 19:8  <b>CORRECTION</b> 71:6  <b>Costabile</b> 14:8 17:12  <b>counter</b> 16:19 22:5  40:23 41:6 49:6  <b>counting</b> 16:2  <b>countries</b> 15:24  <b>COUNTY</b> 68:6 70:5  <b>couple</b> 31:14,16  37:25 38:3 39:15  <b>coupons</b> 9:11 54:8  <b>course</b> 33:22  <b>court</b> 1:2 5:2  <b>Cove</b> 4:13  <b>credit</b> 53:3,23  <b>crystal</b> 29:12  <b>current</b> 56:19</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>D</b> 68:2 69:2  <b>Danbury</b> 8:17,17  <b>dark</b> 11:8 18:11  <b>date</b> 6:23 7:19 8:7,10  65:14 71:4  <b>dates</b> 7:9  <b>daughter</b> 51:8  <b>daughter's</b> 51:9  <b>day</b> 11:22 12:7 48:8  53:13 57:12 64:24  68:22 70:22 71:23  <b>days</b> 45:19  <b>deal</b> 35:24 40:4 58:10  <b>dealing</b> 42:16  <b>decide</b> 24:21 34:9  35:17 59:17  <b>deciding</b> 35:14  <b>Defendant</b> 1:9 2:10  <b>Defendant's</b> 6:22 7:3  8:6,9 10:9 16:23  44:15,17 57:7 65:13  <b>definite</b> 23:7  <b>depart</b> 55:2  <b>departed</b> 9:23 10:13  12:9,20,23 21:16  48:17 50:23  <b>departure</b> 7:9,9 10:3  10:22 14:23,24 15:3  16:10 21:3 55:13,14</p>	<p><b>depicted</b> 16:24 22:18  44:14  <b>deposition</b> 3:6,6,10  4:18,22 5:16 68:10  68:13 71:3  <b>describe</b> 7:5 8:13  16:12 17:24 29:4  37:13  <b>describing</b> 48:8  <b>desk</b> 26:21 27:12  <b>destination</b> 7:9 15:15  15:17  <b>determine</b> 14:15  <b>different</b> 8:3 15:23  40:24,25 54:19,22  <b>diligently</b> 63:5  <b>dinner</b> 10:22,23  <b>directed</b> 24:8,12 27:8  <b>directing</b> 30:23  <b>direction</b> 24:5,6,7  25:5,9  <b>directly</b> 15:24 29:6  29:11 59:19  <b>discussion</b> 16:7 59:21  <b>discussions</b> 50:21  <b>dismissed</b> 58:25  60:22  <b>distance-wise</b> 43:18  <b>DISTRICT</b> 1:2,3  <b>doctor</b> 35:11  <b>doctor's</b> 49:10  <b>document</b> 7:2,5,7,12  10:11,12 11:25 12:4  16:22 57:6,9,10  65:10,19 66:4 69:16  <b>documents</b> 6:16 7:18  7:22 8:5,11,14,15  9:5,8,14 47:4 54:4  69:12,17  <b>doing</b> 35:4 48:5 60:20  <b>dollars</b> 53:21  <b>dozen</b> 20:4,5  <b>driver</b> 38:24  <b>duly</b> 4:4 70:13  <b>Dutch</b> 1:8 4:17 5:24  <b>DUTCHESS</b> 68:6</p> <hr/> <p style="text-align: center;"><b>E</b></p> <hr/> <p><b>E</b> 2:2,2 68:2,2 69:2,7  70:2,2 71:2,2,2  <b>earlier</b> 12:15 55:15  <b>early</b> 13:9  <b>eat</b> 13:17,23 14:5  <b>effect</b> 3:9  <b>eight</b> 13:8</p>	<p><b>eight-hour</b> 13:2  <b>either</b> 9:9 10:21 25:7  43:17 50:10 51:3  52:12 61:16 64:22  64:23  <b>elbow</b> 29:10,11 35:6  58:13  <b>emergency</b> 46:15,16  46:20 47:5 58:14,19  69:17  <b>employed</b> 28:8  <b>employee</b> 34:2  <b>employment</b> 56:19  <b>entire</b> 29:24 33:17  <b>Erin</b> 51:10,10  <b>escort</b> 23:13  <b>ESQ</b> 2:7,13,13  <b>evening</b> 10:6,14,17  10:24 11:4,5,8,17  12:18  <b>event</b> 45:12  <b>eventually</b> 63:19  <b>EXAMINATION</b>  1:14 4:7 69:4  <b>examined</b> 4:6  <b>Exhibit</b> 6:22 7:3 8:6,9  8:19 10:9 16:23  44:17 57:7 65:13  66:7  <b>exhibits</b> 8:3 69:9  <b>expend</b> 56:13  <b>experience</b> 21:7 23:9  23:10,11 24:14,24  25:8 28:4 54:15,16  <b>explained</b> 4:21</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>F</b> 70:2  <b>facing</b> 22:15  <b>fact</b> 14:3 35:16 40:3  <b>fairly</b> 37:10  <b>fall</b> 29:22 33:11,13,18  52:3 53:13  <b>fallen</b> 35:6 51:13  <b>familiar</b> 16:25 66:7  66:12  <b>far</b> 29:8 41:8,10,10  41:11 42:3,5 66:8  <b>fast</b> 43:20  <b>father</b> 51:13  <b>feel</b> 5:8  <b>fell</b> 23:23 29:10,10  30:2 33:2,9,16,20  36:7 40:11 43:23  44:13 47:15 56:2</p>	<p>57:4 65:3  <b>felt</b> 58:25 60:15,22  <b>fifteen</b> 40:16 42:21  <b>figure</b> 42:18  <b>filing</b> 3:5  <b>fill</b> 48:7,24 49:4,12  57:14  <b>filled</b> 50:10  <b>filling</b> 48:11  <b>find</b> 35:10,11,12,25  36:3,4 40:8 42:16  57:20,21 63:2  <b>fine</b> 21:14 46:11  <b>first</b> 4:4 9:20 36:16  36:22 42:8,9,12  55:6,10  <b>first-aid</b> 35:10 38:19  49:9  <b>five</b> 14:18 15:6,9,13  52:21  <b>five-minute</b> 65:7  <b>flat</b> 35:5  <b>flew</b> 26:17  <b>flight</b> 9:25 10:4,5,5,6  10:13,17 11:4,6,12  11:15,17 12:21,22  12:25 13:2,10 14:10  14:13,23 19:19 21:3  21:20 23:17,20 34:8  35:13,16 40:12  42:24 48:15 51:13  51:14 54:5,11,19,25  55:2,5,15,20 56:5  58:25 59:13,14,20  59:23,24 60:4 64:6  64:9  <b>flights</b> 7:8  <b>flown</b> 55:12  <b>fly</b> 55:6  <b>flying</b> 27:19,20 29:10  <b>follow</b> 25:11  <b>follows</b> 4:6  <b>force</b> 3:8  <b>form</b> 3:13 48:21 49:5  49:8,11,12,14,16,22  50:3,6,9,14,16,19  <b>forms</b> 48:7,12 57:15  <b>Forsyth</b> 2:10 4:17  <b>forty-five</b> 21:17,19  <b>found</b> 42:15  <b>four</b> 13:18 14:18  15:22 19:23 20:3  41:15  <b>free</b> 5:8 44:6  <b>friend</b> 17:11 47:20</p>	<p>51:22 59:18  <b>friends</b> 13:19,22  <b>front</b> 18:11,15,17  19:9 29:11,13 44:16  <b>further</b> 3:12 63:17  66:24 70:17</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>G</b> 68:2  <b>gate</b> 14:24 16:10  23:12 40:24,25 41:5  <b>gateway</b> 23:15  <b>general</b> 9:16  <b>generally</b> 28:21  <b>gentleman</b> 18:12  <b>getting</b> 17:22 31:3  39:16 55:17  <b>give</b> 50:2 60:3  <b>given</b> 4:18 54:10  58:23 68:14  <b>giving</b> 60:21  <b>go</b> 11:2,2 15:13 16:9  24:8,9,22 25:11,13  29:8 35:17 43:2  47:12 49:2,4 58:19  <b>going</b> 9:18 14:2 23:12  23:16 24:22 35:13  35:15,17 39:10,22  40:3,9 42:17,19  58:24 62:18 65:23  <b>good</b> 4:15 65:6  <b>gotten</b> 49:8 61:23  <b>Grand</b> 6:14 7:13  61:18,21  <b>ground</b> 38:2 42:4  <b>guess</b> 12:12,13 21:13  24:13 25:18 39:23  56:12 58:18 60:5</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>H</b> 69:7 71:2  <b>hair</b> 28:14 41:20  <b>half</b> 21:10,16,19  34:25 35:3 36:9  37:2 42:20  <b>hand</b> 20:13 44:5,5,9  70:21  <b>handed</b> 7:2  <b>handled</b> 58:4,5,6,21  <b>hanging</b> 44:7  <b>happened</b> 29:14  45:10,11,22 51:12  58:2 62:16 63:14  66:13  <b>happening</b> 35:23</p>
--	--	---	--	---

<b>head</b> 14:12 31:23 32:2 <b>headed</b> 14:24 16:10 <b>headings</b> 50:18 <b>heads</b> 30:15 <b>hear</b> 62:12 <b>heard</b> 21:25 <b>held</b> 1:15 16:8 60:4 70:11 <b>help</b> 33:22 34:4,16 <b>helping</b> 35:20 <b>hereto</b> 3:5 <b>hereunto</b> 70:21 <b>hold</b> 35:16 39:19,20 40:4 59:16,17,23,24 <b>holding</b> 39:12 40:12 43:22 44:4 <b>home</b> 9:9,19 35:17 47:6 51:5,14 53:6 <b>Hopewell</b> 4:13 <b>hospital</b> 46:19,23 47:5,13 48:17 49:2 52:13,16 53:17 63:15,20 64:11 69:17,19 <b>hour</b> 15:2 17:20,22 19:12 21:11,16,19 34:25 35:3 36:9 37:2 42:20 <b>hours</b> 13:8 14:18 34:11 <b>hundred</b> 41:13,15 52:20,21 <b>hundreds</b> 52:25 <b>hurt</b> 61:14 <b>husband</b> 6:5 7:13 17:11 23:23 33:2,8 33:16,20 35:3 38:2 40:10 42:4,6,13 43:22 46:12 47:15 49:23 50:10 52:5,9 55:25 56:23 57:4,13 58:12 64:18,22 65:2 66:15,18 <b>husband's</b> 5:16 52:3 53:13 56:11 66:14	39:5,8 47:17 48:8 50:22 51:20 56:14 56:17,23 57:16 61:17 63:9,23 65:4 <b>indicates</b> 63:3 <b>indicating</b> 6:20 18:14 19:2,23,25 22:3,4 22:11 24:17 26:4 29:9 <b>individual</b> 32:9 <b>individuals</b> 32:14 <b>information</b> 50:14 66:19 <b>initially</b> 8:18 58:20 <b>injury</b> 39:25 56:9 <b>inside</b> 11:20 15:23 <b>instruct</b> 28:6 <b>instructed</b> 24:19,22 <b>insurance</b> 63:15,18 <b>intercom</b> 21:22 24:13 <b>interested</b> 70:19 <b>internationally</b> 15:5 15:7 <b>involved</b> 45:24 <b>involving</b> 5:24 56:23 <b>Ireland</b> 15:11,12 <b>Italy</b> 15:11,12 <b>items</b> 61:10 <b>itineraries</b> 9:11 <b>itinerary</b> 6:17,21 7:20 69:10	<b>KLM</b> 1:7 4:17 5:24 9:12 26:15,17,19,23 27:2,2,9,18,19,20 41:4 42:3 49:6 57:18,24 59:23 61:13,16,25 62:20 64:23 69:20 71:4 <b>knew</b> 39:24 41:3 52:4 52:8 <b>Knollwood</b> 1:10 <b>know</b> 5:12,19 10:25 11:16 12:25 13:10 13:17,18 14:11,18 14:19,25 15:22 16:16 18:11 20:2 22:5 23:14 24:3,10 24:11,17 25:16 26:10 28:13 31:16 33:25,25 35:12,24 38:22 39:17,18,22 40:13,23 42:3,5 43:2,6,7,12 44:19 46:6,24 52:19,22 56:8 58:18,20,22 63:17 64:18,22 66:15,20,21,23 <b>KONINKLIJKE</b> 1:7	<b>located</b> 26:3 <b>location</b> 25:11 <b>long</b> 12:22,24 13:10 14:9,16 17:18 21:2 31:11 33:21 34:5,5 34:9,10,12,16 36:7 36:10 37:23 40:10 40:13 42:18,20 43:17 59:16 60:25 62:13 <b>longer</b> 13:5,8 <b>look</b> 16:25 19:18 25:21 26:9 32:21 60:20 65:16 66:7,12 <b>looked</b> 16:13 31:11 37:8 41:18,19 50:12 63:5 <b>looking</b> 10:12 11:25 12:4 18:10 19:22 22:7,12 35:22 50:9 <b>looks</b> 20:12 <b>lot</b> 13:5 35:23 41:6 <b>LUCHTVAART</b> 1:7	<b>medically</b> 58:12 <b>Meenagh</b> 2:4,7 7:24 8:19,23 10:19 16:17 19:3 22:21,23 23:5 28:11 31:8 34:14,18 40:14 42:10 44:15 46:4,8,10 47:7,9 52:22,24 53:9 57:22 60:6,8 62:18,25 63:10 64:12 66:8 67:2 <b>mentioned</b> 48:9 51:21 59:7 61:11 <b>middle</b> 12:12 <b>mind</b> 21:6 <b>mine</b> 13:22 <b>minute</b> 31:15,17 <b>minutes</b> 21:17,19 34:11,23,24 35:2 36:9 37:2,25 38:3 38:10 40:16,17 42:21,21 43:20,21 <b>missed</b> 51:13,14 <b>missing</b> 34:8 <b>moment</b> 65:3 <b>money</b> 52:11 56:13 <b>month</b> 7:16,17 <b>morning</b> 10:5 11:22 13:9 20:15 <b>multiple</b> 50:6
<hr/> <b>I</b> <b>Identification</b> 6:23 8:7,9 65:14 69:9 <b>ignored</b> 58:8 60:12 60:14 <b>ignoring</b> 60:15,18 <b>immediately</b> 33:24 <b>incident</b> 5:23 37:6	<hr/> <b>J</b> <b>J</b> 2:13 <b>January</b> 1:12 68:10 70:22 71:4 <b>Jennifer</b> 14:8 17:12 17:16,17 35:14 47:20 51:22 52:5,9 <b>jet</b> 55:11 <b>John</b> 2:7 53:7 <b>join</b> 47:16 <b>joined</b> 42:9 <b>JR</b> 2:7 <b>July</b> 5:24 <b>jumbo</b> 55:11 <b>jump</b> 23:17 <b>Junction</b> 4:14	<hr/> <b>L</b> <b>L</b> 3:1 8:6,19,22 68:2 69:11 <b>landed</b> 55:24 <b>landing</b> 13:12 14:10 <b>lawsuit</b> 5:20 <b>layover</b> 14:9,14,16 15:25 <b>leaving</b> 13:16 <b>LEFLAND</b> 2:13 <b>left</b> 12:11 13:7 17:24 18:24,25 61:3,4 <b>leg</b> 9:20 <b>legal</b> 46:4 <b>length</b> 58:7 <b>letter</b> 57:17,17,19,25 58:2 61:12,15 62:3 62:5,7,8,11,15,20 62:24 63:8,17,21 64:23,25 69:20 <b>letters</b> 57:14 <b>Let's</b> 12:10 33:23 41:14 <b>life</b> 57:4 <b>LINE</b> 69:16 71:6 <b>listen</b> 60:20 <b>LLP</b> 2:4,10	<hr/> <b>M</b> <b>M</b> 8:9,22,24 68:2 69:13 <b>MAATSCHAPPIJ</b> 1:7 <b>MacDonald</b> 51:10 <b>man</b> 25:24 33:24 34:19 35:20 36:11 36:17,24 37:5 38:5 38:8 39:5 47:23 <b>manner</b> 6:12 <b>MARISSA</b> 2:13 <b>mark</b> 6:19 8:2 <b>marked</b> 6:21 7:3 8:5 8:8 10:9 16:23 44:17 57:7 65:11,12 <b>marriage</b> 70:18 <b>matter</b> 70:20 <b>McGowan</b> 14:8 44:23 44:24 <b>meal</b> 13:25 <b>mean</b> 6:4,9,11 9:10 11:14,22 19:21 20:2 25:5,16 30:20 31:25 32:8 33:15 37:13 49:23 50:15,25 54:6 63:13 66:8 <b>meant</b> 19:4 <b>medical</b> 7:25 42:7,14 43:3 46:13 47:12,16 52:12 56:12,12	<hr/> <b>N</b> <b>N</b> 2:2,13 3:1 65:11,13 66:7 68:2,2 69:2,14 <b>Nairobi</b> 9:24 13:5 55:25 <b>naively</b> 39:18 <b>name</b> 4:9,15 41:22,25 46:19,22,23 51:9 61:22,24 <b>names</b> 14:7 <b>near</b> 55:14 <b>necessarily</b> 11:14 <b>need</b> 4:25 5:6,11 <b>needed</b> 48:24 49:2 58:12 <b>negligence</b> 45:24 46:2 <b>never</b> 28:3 55:11 <b>new</b> 1:3,11,18 2:6,12 2:12 4:5,14 13:3,6 14:2 23:17 48:18 50:24 54:6,10 56:4 56:5,20 64:6 68:4 70:3,9 <b>nice</b> 41:19 55:7



<p>night 11:23 12:11,12 55:14</p> <p>nighttime 12:13</p> <p>Nodding 5:4</p> <p>North 2:5 4:13</p> <p>Notary 1:17 4:4 68:24 70:9 71:25</p> <p>noted 67:5</p> <p>notes 48:3 70:16</p> <p>Notice 1:18</p> <p>number 14:11</p> <p>N.V 1:7</p>	<p>parties 3:4 70:18</p> <p>pass 23:13 56:2</p> <p>passenger 19:18 34:3</p> <p>passengers 22:18 25:12 32:5,8</p> <p>passes 54:7,10</p> <p>passing 55:21</p> <p>pass-through 15:16</p> <p>pay 40:2 52:15 53:2 53:12 55:9 63:19</p> <p>paying 39:17 40:5 52:11 63:16</p> <p>payment 9:15 54:2</p> <p>people 11:13 19:11 20:6 22:5 26:25 27:4 30:24,25 38:20 39:16 40:19 41:6 43:4,7,7,11,12 47:18 58:8</p> <p>period 33:15 48:9</p> <p>perpendicular 20:8</p> <p>person 24:15 25:5,8 25:21 35:15 36:16 36:22 61:21</p> <p>personally 56:24,25</p> <p>phone 51:19 62:5</p> <p>photo 19:6 22:25</p> <p>photograph 16:25 17:25 18:10,25 20:12 22:8,12,19 26:6 32:22,23 44:16 44:20,22,25 45:15 45:25</p> <p>picking 51:16</p> <p>picture 17:25 22:24 45:4,5,6,7,10,22</p> <p>place 1:16 70:12</p> <p>Plains 1:11</p> <p>Plaintiffs 1:5,15 2:5 4:3</p> <p>PLAINTIFF'S 69:9</p> <p>plane 23:12,14 24:4,9 39:12 51:15 59:16 59:17</p> <p>please 4:9,11 5:8,12 7:4 60:11</p> <p>Plus 35:14</p> <p>point 20:23 30:4 54:25 61:5</p> <p>pointing 22:7 26:5</p> <p>possession 7:12 9:4 48:20</p> <p>Poughkeepsie 2:6</p> <p>pretty 28:11 37:10</p> <p>prior 10:22 15:2 21:2</p>	<p>30:9,11,19 31:3</p> <p>probably 13:13,16 14:25 15:2 17:20 43:11,25 47:6 51:4 51:8</p> <p>problem 56:8</p> <p>problems 56:4,6</p> <p>produced 8:12 47:8 53:8 62:21</p> <p>proof 9:15</p> <p>property 46:17</p> <p>provided 66:19</p> <p>Public 1:17 4:5 68:24 70:9 71:25</p> <p>purchase 6:2,4,8,17 7:19,19</p> <p>purchased 6:13</p> <p>pursuant 1:18</p> <p>push 29:16,18</p> <p>putting 50:14,15</p> <p>p.m 1:12 11:3,16 67:5</p> <p>P.O 2:6</p>	<p>32:17,19 33:3,5,8 33:21 36:10 37:5,8 37:17,20,22,23 38:16,23 40:18 41:8 41:12,17,21,24 42:2 43:17 44:3,4,9,11 46:19 48:2,11,13 49:16,22 50:5,9,18 51:7,11 52:11,17 53:19,22 54:13,21 55:13 61:12,20 62:10,14</p> <p>receipt 62:15</p> <p>receipts 9:10 53:4,25 69:18</p> <p>receive 46:12</p> <p>received 9:2 46:14 52:12 62:10</p> <p>receiving 54:13</p> <p>recess 65:8</p> <p>recollection 10:13,16 12:2,5</p> <p>record 4:9,12 5:3,5 7:5,8 8:13 16:6,8,12 17:3 22:8 26:5 68:11,13</p> <p>records 7:25</p> <p>red 18:12</p> <p>refer 9:18 58:15</p> <p>referred 14:6 30:5 59:10</p> <p>referring 8:20 22:9 22:17 34:11 44:13 53:16 56:7 58:16 59:4</p> <p>refers 5:22</p> <p>refresh 10:12,16 11:25 12:4</p> <p>regarding 50:22 63:22</p> <p>reimbursed 63:19</p> <p>relate 7:23</p> <p>related 8:15 70:17</p> <p>relating 9:9,11</p> <p>relation 14:23 32:23</p> <p>remember 10:7,21 11:11,13 12:17,22 13:16 14:3,22 16:18 16:19 17:23 18:6 21:10 22:2,3,4 23:21,24 25:22,23 25:24 26:22,25 27:13,14,15 38:12 38:15 39:10 40:22 43:6 45:12 47:3</p>	<p>48:23 49:11,12,13 49:15,19,19 50:4 51:18,25 54:20,23 54:25 55:3,4,16,17 55:21,23 60:2 61:24 62:17</p> <p>repeating 9:7 54:17</p> <p>rephrase 5:9</p> <p>report 48:24</p> <p>reporter 1:17 5:3 6:24 8:8,10 65:15 70:8</p> <p>represent 4:17</p> <p>REQUEST 47:11 53:11 63:7</p> <p>REQUESTS 69:16</p> <p>reservations 6:15</p> <p>reserved 3:13</p> <p>respective 3:4</p> <p>response 61:25 62:13 62:14</p> <p>result 56:16 58:18</p> <p>return 64:6,9</p> <p>returned 48:10 49:18 50:23 54:18,24 64:5</p> <p>returning 9:19</p> <p>reviews 7:6 10:10 57:8 65:18 66:3</p> <p>re-book 59:14,20</p> <p>re-booked 59:12</p> <p>ride 53:15</p> <p>right 9:17 14:15 16:4 16:18 18:12,16,17 19:4,5,8 22:13,14 22:18,18,20,24 23:18 26:6 29:11,13 32:22,24 37:3,4 47:24 48:19,19 58:17 64:10 66:2</p> <p>Road 1:10</p> <p>room 46:15,16,20 47:5 58:14,19 69:17</p> <p>rows 20:8,10</p> <p>royal 1:8 4:17 5:24 26:12,12</p> <p>rude 58:8 59:8,9</p> <p>runway 23:15</p>
<p><b>O</b></p> <p>O 3:1 68:2</p> <p>oath 3:8 68:9</p> <p>objections 3:13</p> <p>occurred 5:23</p> <p>offered 62:16</p> <p>office 49:10</p> <p>officer 3:7,10</p> <p>oh 13:18 18:16 25:22 35:5 43:24</p> <p>okay 5:13 8:2,23 9:3 10:15 11:18 12:14 20:10 21:5,15 22:10 24:17,20 25:2,4,24 31:10 34:22 40:16 42:11,12,20 45:18 52:24 57:22 59:7 63:6 66:5,22 67:2</p> <p>once 31:5 61:9</p> <p>operating 38:9</p> <p>opportunity 65:20</p> <p>opposed 6:5</p> <p>order 17:13 24:10 31:21 32:20</p> <p>Orthopedic 8:17</p> <p>outcome 70:19</p> <p>outfit 38:14 41:3</p> <p>outside 11:8</p> <p>overnight 11:12,15</p> <p>o'clock 12:11 13:7</p>	<p><b>P</b></p> <p>P 2:2,2,7 3:1</p> <p>PAGE 69:4,9,16 71:6</p> <p>paid 53:22</p> <p>pain 35:24</p> <p>paperwork 49:15</p> <p>parked 51:17</p> <p>part 17:4 18:19,20 46:2,24</p> <p>particular 25:11,13 27:5 61:21</p>	<p><b>Q</b></p> <p>question 5:10 12:3 21:5,9 31:9 36:15 40:15 42:11 46:5 54:18 60:9 63:16</p> <p>questions 4:23,23 5:2 5:7 65:23 66:25</p> <p>quick 31:5</p> <p>quickly 37:23</p> <p>quite 10:25 11:2 43:20</p>	<p><b>R</b></p> <p>R 2:2 70:2 71:2,2</p> <p>read 5:15 65:16,20 68:9</p> <p>reading 10:20</p> <p>realize 39:21</p> <p>really 22:22 34:5,5 59:18</p> <p>reason 60:3 71:6</p> <p>recall 9:22 10:3,15 11:5,7,18,21 12:15 13:11 14:9 15:8 16:14 17:13,18,21 18:7,21 19:10,14,17 19:21 20:3,7,17,20 21:2,12 23:3,22 25:15,19 26:11,14 26:23 27:11 28:14 28:16,18,21,25 31:11 32:5,11,13,14</p>	<p><b>S</b></p> <p>S 2:2 3:1,1 69:7 71:2</p> <p>safari 9:20</p> <p>sake 48:16</p> <p>sat 17:6,10</p> <p>satisfaction 40:7</p> <p>saw 27:4 29:12 30:19</p>

<p>30:19 34:10 42:23 49:20 saying 5:4,4 33:3,5 60:21 66:17 says 11:3,16 12:20 26:23 scheduled 12:16 21:3 Schiphol 46:21 sealing 3:5 search 47:10 53:10 62:19,23 63:4 seat 31:4,6,22 seated 17:14 18:13 20:18 30:21,22 31:19 seating 17:14 seats 29:25 32:21,23 33:2 second 54:11,18,24 55:5,20 seconds 31:14,17 secure 58:13 security 55:22 56:2 see 12:10 21:24 26:18 29:18,21 30:4,16,23 31:7,21 32:20 33:13 33:18,23 41:14 45:9 48:3,5 52:7 62:20 seeing 19:17 20:17 26:25 32:5,11 37:5 49:16 50:18 seen 57:10 send 7:14 57:14 58:14 61:15,25 63:8 sending 61:20 sent 57:23 61:18 63:11 sequence 29:5 serious 39:21 set 70:21 seventeen-hour 14:13 shirt 18:12 37:14 shopping 14:20,20 Shorthand 1:16 70:8 shoulder 43:25 44:8 show 6:16 showing 7:19 8:11 10:8 16:22 54:4 57:6 65:10 side 22:18 signed 3:7,9 gns 18:7 similar 54:21 similarly 62:23 sit 16:15,20 20:6 35:7</p>	<p>sitting 14:4 17:19 19:5 28:25 30:16 35:8 54:25 six 15:6,9 skirt 38:14 sleeping 11:8,13 smart 39:19 somebody 21:24 23:3 23:9,11 25:10,15,19 28:5 33:21 34:16 36:6 40:2,9 51:4 59:7 60:12 soon 38:19 sorry 9:7 14:14 31:25 54:17 sorts 37:16 source 66:16 SOUTHERN 1:3 spaghetti 14:4 speak 5:6 39:4 47:17 51:20 61:15 63:8,21 64:4 specifically 9:20 14:3 21:10 speculative 28:12 spent 63:20 spoke 39:8 40:19 47:21,22 51:23 64:18,23 spoken 64:13 Square 2:11,11 ss 68:5 70:4 stand 23:14 standing 17:21 29:2,3 start 24:19 started 29:7 41:2 state 1:17 4:5,9,11 68:4 70:3,9 Statement 8:8 69:13 statements 57:14 STATES 1:2 station 49:9 stayed 13:15 staying 10:23 13:20 13:23,25 stenographic 70:16 stenographically 70:15 stent 58:13,15 59:5 sticking 14:12 STIPULATED 3:3 3:12 stomach 35:5 37:11 stop 60:19 straight 47:12</p>	<p>Street 2:5 stubs 54:7 subject 5:19 submitted 63:14 Subscribed 68:22 71:22 substantiating 54:2 summarize 5:22 supposed 21:8,9,11 24:9 51:6 sure 4:21 6:9,12 11:9 38:15 46:3,7 47:2 59:3 63:5 65:22 surgery 8:18 sweater 37:15,15 sworn 3:7,9 4:4 68:22 70:13 71:22 sympathy 62:17</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p>T 3:1,1 68:2 69:7 70:2,2 71:2,2 tags 41:22,25 take 23:13 29:15 31:21 33:11 39:24 42:17 44:24 45:14 47:22 53:17,18 64:10 65:7,16,16 taken 1:16 3:10 61:5 65:9 68:9 70:15 71:4 takeoff 14:10 talk 39:11 41:9 50:13 60:25 61:8 talked 39:11,12 talking 34:19 40:11 48:4 63:24 tall 28:16 taxi 53:17,18 taxicab 53:14,15 teacher 56:20 telephone 6:10 51:2 television 16:15 tell 5:8 25:10 43:8,10 51:5 58:2 59:15,22 59:25 telling 21:24 22:5 25:16,19 48:23 49:12 ten 15:7,19 40:17 41:13 42:21 43:20 43:21 53:21 testified 4:6 60:23 testimony 68:9 70:11 70:14,14</p>	<p>text 66:6,7,16 Thank 9:3 16:5 67:3 things 11:11 56:21 think 8:21 9:24,24 10:21 12:18,21 13:4 13:4 14:4,19,20 17:16 18:23 19:24 20:10,11,19 21:9,23 22:3,4 23:4,5,8 24:16 26:2,15,16,20 27:6,7,17,21 30:19 35:8,20,21,22,25,25 36:5,6 37:9,10 38:12,13,14,14,18 39:14 40:6 41:5,19 42:16 43:9,24 44:7 47:20 48:15,22,23 48:25 49:3,24 50:8 50:12 51:17,18 52:19 53:21 56:3 57:23 58:9 59:11 60:18 61:3,4,4,5,7 61:18,23 62:25 63:3 63:10 64:8,17,21 65:5 thinking 12:24 19:23 20:2,3 21:7 22:2 24:3 39:19 52:20,21 third 35:14 thirty 38:10 Thompson 1:16 70:8 70:24 thought 18:19,19 36:14 39:18,22 43:8 45:23 58:7,8 three 13:21 16:16 39:2 ticket 6:17 7:19 54:7 54:7 tickets 6:2,8,13 7:20 9:11,16 time 1:15 3:14 5:11 10:3 11:21 12:7,16 15:3 29:24 32:25 33:15,17 34:5,6,9 34:10,16 36:2,5,14 36:20 39:9 43:18 47:15 48:25 50:7 51:21 52:7 55:24 58:7 59:17 62:13 64:5,10 65:2,7,17 66:19 67:5 70:12 times 2:11,11 15:7,9 15:13,18,22 today 5:4 7:23 8:12</p>	<p>told 25:13 48:23 51:12 top 50:19 touch 29:16,19 Tower 2:11 transaction 53:5 transcript 5:5,16 68:9,11 transcription 70:16 transportation 5:23 6:3 9:10,12,16,19 9:21 travel 6:14 7:14 9:25 15:2,4,21 61:19,21 63:11 traveled 15:6,8 traveling 13:19 treat 58:12 treatment 8:5,16,25 52:12,15 56:12 69:11,18 trial 1:14 3:14 tried 35:25 trip 6:3 7:10 15:15,22 16:2 tripped 29:9,9,23 33:9 45:5 trips 15:14 16:3 trousers 37:14 true 68:11,14 70:15 try 35:19 36:2 trying 34:4,8 35:8,9,9 35:10,12,12 40:2,7 40:8 41:4 42:16,18 59:15 turn 30:15 turned 29:7 31:22,23 32:2 35:7 twenty 34:23,24 35:2 36:9,25 38:10 41:16 41:16 twice 15:12,21,21,23 two 8:3 13:22 14:6 15:2,14,23 16:3 40:20,21 41:9,17 42:23 47:19 52:20 59:10,12,22 60:15 60:25 type 28:9 50:5 typed 66:17</p> <hr/> <p style="text-align: center;"><b>U</b></p> <hr/> <p>U 3:1 um 5:4 um-hm 22:16 55:8</p>
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<p><b>understand</b> 5:8,9  <b>uniform</b> 26:13,14,24  27:10,20 37:15,18  <b>uniforms</b> 27:2 43:12  <b>UNITED</b> 1:2  <b>upgrade</b> 55:9  <b>upset</b> 58:3  <b>use</b> 20:14  <b>usually</b> 24:14</p> <hr/> <p><b>V</b></p> <p><b>V</b> 71:4  <b>vaguely</b> 47:2  <b>verbalize</b> 4:25</p> <hr/> <p><b>W</b></p> <p><b>W</b> 68:2  <b>Wait</b> 34:14  <b>waiting</b> 16:11,13 17:4  17:7 18:3,8 19:11  19:22 23:19 30:8,13  30:14,20 48:15 52:2  52:8 54:19,22 55:2  <b>waived</b> 3:6  <b>walk</b> 24:22 29:7 41:2  41:8 43:20  <b>walked</b> 24:5,6,7,11  24:11,18 25:6,9  43:14  <b>walkie-talkie</b> 35:21  <b>walking</b> 36:18  <b>wall</b> 18:20 19:24  <b>Walsh</b> 1:4,4,14 4:2  4:10,15 5:1,15 6:1  6:25 7:1,4,11 8:1,11  9:1,7,18 10:1,8 11:1  12:1 13:1 14:1 15:1  16:1,9,22 17:1,9  18:1 19:1,10 20:1  21:1 22:1,6 23:1  24:1 25:1 26:1 27:1  28:1 29:1,4 30:1  31:1 32:1 33:1 34:1  35:1 36:1 37:1 38:1  39:1 40:1 41:1 42:1  43:1 44:1,19 45:1  46:1,12 47:1 48:1  49:1 50:1 51:1 52:1  53:1 54:1 55:1 56:1  56:11 57:1 58:1  59:1 60:1 61:1 62:1  63:1 64:1 65:1,10  66:1,6 67:1 68:8,16  69:5 70:11 71:3,4  71:21</p>	<p><b>Walsh's</b> 8:4 69:11  <b>want</b> 21:13 39:23  45:7 54:12  <b>wanted</b> 45:4,5,6,9,10  45:21,22,23,25  60:19  <b>wasn't</b> 12:24 15:16  34:3 35:23 39:19  53:23 59:18  <b>watching</b> 29:24  <b>Water</b> 2:5  <b>way</b> 21:8 22:15 24:8  24:8,12,18,22,23  29:16,19 53:21 58:3  58:3,5,11,20 70:19  <b>ways</b> 11:2,2  <b>wearing</b> 26:11 27:2  28:23 41:21,25  47:23  <b>went</b> 6:14 16:11  29:10 35:22,25 36:2  39:11,11 42:8,9,12  42:15,15 46:15,20  47:16 48:14,17,22  49:6 54:19 61:3,7,8  64:10  <b>weren't</b> 39:24 40:24  51:5  <b>WESTCHESTER</b>  70:5  <b>whatsoever</b> 9:8  <b>WHEREOF</b> 70:21  <b>White</b> 1:11  <b>windows</b> 18:22,23  <b>witness</b> 7:6 10:10  57:8 62:25 65:18  66:3 69:4 70:13,21  <b>woman</b> 25:25 26:2,9  27:8,14 28:22 30:4  31:12 32:15,20  38:13,16 39:7  <b>women</b> 13:21 14:6  39:14,15 40:20,21  41:9,17 42:23 47:19  59:10,10,12,22  60:15 61:2  <b>word</b> 46:21  <b>words</b> 10:4  <b>work</b> 28:9 56:16  <b>worked</b> 26:25 27:9  27:18,21 33:25 34:2  41:4 43:11 47:18  <b>works</b> 27:24 28:5  <b>wouldn't</b> 21:12 24:5  <b>write</b> 48:21 50:6</p>	<p>63:21  <b>writing</b> 48:4  <b>written</b> 57:13 69:20  <b>wrong</b> 60:12,24  <b>wrote</b> 57:17,17,25,25  61:13 64:23,25</p> <hr/> <p><b>X</b></p> <p>x 1:3,9 69:2,7</p> <hr/> <p><b>Y</b></p> <p><b>yards</b> 41:13,13,15,16  <b>yeah</b> 21:23 34:22  <b>years</b> 15:7,20 16:16  <b>York</b> 1:3,11,18 2:6  2:12,12 4:5,14 13:3  13:6 14:2 23:17  48:18 50:24 54:6  56:5,20 64:7 68:4  70:3,9  <b>young</b> 33:24 34:19  35:20 36:11,17,24  37:5,10 38:5,8 39:5  47:22</p> <hr/> <p><b>0</b></p> <p>09 1:6</p> <hr/> <p><b>1</b></p> <p>1 1:1  1:30 12:9  10 10:1  10036 2:12  1031 2:6  11 11:1 69:17,18  11th 70:22  12 12:1  12533 4:14  12602 2:6  13 13:1  135 2:5  14 14:1  15 15:1  16 16:1  17 14:11 17:1  18 18:1  1803 1:6  19 19:1</p> <hr/> <p><b>2</b></p> <p>2 2:1  2:11 1:12  20 20:1  2007 5:24  2010 1:12 68:10,23</p>	<p>70:22 71:4,23  21 21:1  22 22:1  23 23:1  24 24:1  25 25:1  26 26:1  27 27:1  28 28:1  29 29:1</p> <hr/> <p><b>3</b></p> <p>3 3:1  30 30:1  31 31:1  32 32:1  33 33:1  34 34:1  35 35:1  36 36:1  37 37:1  38 38:1  39 39:1  399 1:10</p> <hr/> <p><b>4</b></p> <p>4 4:1 69:5  4:05 67:5  40 40:1  41 41:1  42 42:1  43 43:1  44 44:1  45 45:1  46 46:1  47 47:1 69:17  48 48:1  49 49:1</p> <hr/> <p><b>5</b></p> <p>5 5:1  5:00 14:17  50 50:1  51 51:1  52 52:1  53 53:1 69:18  54 54:1  55 55:1  56 56:1  57 57:1  5702 4:13  58 58:1  59 59:1</p> <hr/> <p><b>6</b></p>	<p>6 6:1 69:10  6:00 14:17  60 60:1  61 61:1  62 62:1  63 63:1 69:20  64 64:1  65 65:1 69:14  66 66:1  67 67:1  68 68:1  69 69:1</p> <hr/> <p><b>7</b></p> <p>7 2:11 7:1 68:10  69:20  7:00 14:17  70 70:1  71 71:1</p> <hr/> <p><b>8</b></p> <p>8 1:12 8:1 69:11,13  71:4  8:00 14:18  8:55 11:3,16 12:20,23</p> <hr/> <p><b>9</b></p> <p>9 9:1 12:11 13:7</p>
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Passenger Name: WALSH/BRIAN MR	Form of Payment: CASH	Booking Agent ID: DA	Seq Nbr: 6670
ETKT Indicator: Y	ESAC:	Commission Rate: 0.00	Commission Amount:

CPN	Stopover Code	From	To	Carrier/	Flight/	Class	Depart Date	Depart Time	Fare Basis/TI
1	X	JFK	AMS	KL	0642	T	05JUL07	0540P	THNT4 B'
2	O	AMS	JRO	KL	0569	T	06JUL07	1040A	THNT4 B'
3	X	JRO	AMS	KL	0569	T	20JUL07	0855P	THNT4 B'
4	O	AMS	JFK	KL	0641	T	21JUL07	0130P	THNT4 B'

Fare Calculation: NYC KL X/AMS Q120.00KL JRO M/BT THNT4/BT899 KL X/AMS KL NYC Q120.00 M/BT THNT4/BT899 END XT  
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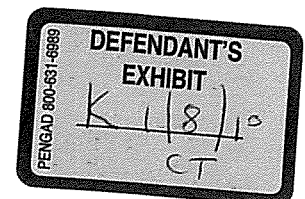
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CPN	Stopover Code	From	To	Carrier/	Flight/	Class	Depart Date	Depart Time	Fare Basis/Ti
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4	O	AMS	JFK	KL	0641	T	21JUL07	0130P	THNT4 B'

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12.28RN11.06CJ8.00HY7.00XY5.50YC5.38VV5.00XA2.50AY4.50XFJFK4.5

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Walsh, Brian

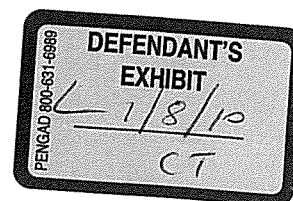
Account #: 877098

01/28/08 – Brian comes in today. CT scan shows good healing of the lateral condylar fracture. However, there are extensive osteophytes, extensive degenerative arthritis, and loose bodies. He is discouraged. He is 6 months status post ORIF. He has persistent pain and loss of extension. Actually I thought he has done well after the surgery considering the degree of arthritis he had in his elbow preoperatively. He is 6 months from his surgery. He has lost a little bit more motion but his main complaint is pain which is a problem.

I had a long discussion with Brian about it. The issues here would be to wash out his elbow, possible corticosteroid injection which probably would be temporary. Ultimately, he will need a total elbow replacement. He knows this. I told him of this even before I operated on him. At this point, I recommend he wait and he will see me in 3 to 4 months' time.

Joseph DiGiovanni, M.D.

JDG/mq:ro



Walsh, Brian

Account #: 877098

11/13/07 – Brian comes in today. He is four months status post ORIF of the lateral condyle fracture with pre-existing severe degenerative arthritis due to two previous surgeries, which include a radial head excision and fascial ORIF. He is now having some persistent lateral pain. Repeat x-ray showed good healing. Hardware is intact. His range of motion is good. It goes from proximally negative 20-25 degrees to 110 degrees.

PLAN: At this point, possibly recommend corticosteroid injection and we will see how he does with that. Today, he does not want it and he will call and will let us know.

Joseph DiGiovanni, M.D.

JDG/r:r:ro

~ 6 mm SP AHIP



Walsh, Brian

Account #: 877098

10/11/07 - Brian is almost three months status post open reduction and internal fixation of lateral condyle fracture, intraarticular distal elbow fracture with preexisting severe degenerative osteoarthritis due to two previous surgeries with radial head excision. He is doing well with range of motion except for his pain level. He still has quite a bit of pain. Flexion is to 110, extension to -50.

Repeat x-rays show again a little bit of a lucency but otherwise there is callous.

At this point, I will see him in five weeks time for repeat x-ray.

Joseph DiGiovanni, M.D.

JD/je

Walsh, Brian

Account #: 877098

09/10/07 – Brain comes in today, now 2 months status post ORIF of a lateral condyle fracture with a preexisting severe degenerative osteoarthritis of his elbow due to two previous surgeries. He has had a radial head excision and previous fracture. He is actually doing well. Range of motion is returning. He will continue flexion exercises.

X-Ray: X-rays were taken today. The lateral condyle fracture is still visible, although some consolidation is seen.

Plan: Continue protective range of motion exercises and we will see him in 1 month's time.

Joseph DiGiovanni, M.D.

JDG/rm:ro

Walsh, Brian

Account #: 877098

08/06/07 – Two weeks status post ORIF of lateral condyle fracture right elbow. X-rays taken. There is good and satisfactory alignment. There is some depression of a piece which was intraarticular. This was an arthritic elbow to begin with.

PLAN: At this point, he will start therapy. I want to see him in three to four weeks` time for repeat x-ray.

Joseph DiGiovanni, M.D.

JD/fc/ac

Walsh, Brian

Account #: 877098

07/26/07 – Brian Walsh comes in today. The dressings were saturated. No hematoma. Dressing change.

Plan: He will be seen in 10 days for suture removal.

Joseph DiGiovanni, M.D.

JDG/rr:ro

Walsh, Brian

Account #: 877098

07/23/07 – Brian comes in today. A 59-year-old who tripped in the Amsterdam airport when he injured his right elbow. He was taken to Amsterdam University Hospital where he was treated, evaluated, and splinted for an intraarticular distal humerus fracture. He comes in today. This occurred on Saturday.

Medical history: None.

Surgical history: Prostate surgery, rotator cuff, Achilles, tendon repair.

Allergies: None.

Medications: Vicodin.

He does not smoke. He drinks occasionally.

**PHYSICAL EXAMINATION:**

On examination today, his elbow is swollen and ecchymotic. Of interest, he is a significant history on this elbow. He has 2 incisions, one laterally and one posteriorly. He has had 2 operations. He said 40 years ago, he had an operation. He had a radial head excision. On examination again, he has a full neurologic examination. No numbness and tingling. The elbow is swollen.

**X-RAYS:** X-rays do reveal an intraarticular distal humerus fracture, mostly of the lateral condyle. There is significant degenerative osteoarthritis. He did not have a great motion to begin with.

**PLAN:** He was instructed that he will need surgery. He will lose more motion and more arthritis. We will schedule him A.S.A.P.

Joseph DiGiovanni, M.D.

JD/we



07/27/2007 11:03 6184663964

PAGE 05/08

**DANBURY SURGICAL CENTER**An Affiliate of SCA73 Sandpit Road, Suite 101 • Danbury, CT 06810-4041 • (203) 743-2400**OPERATIVE REPORT**

CASE NO. 47019

Patient Name: Brian Walsh

Surgeon: Joseph DiGiovanni, M.D.

Date of Surgery: 07/25/07

**Diagnosis:** Pre-op: Right intraarticular distal humerus fracture of the lateral condyle.  
Postop: Same.

**Procedure:** Open reduction and internal fixation.

Anesthetic: Interscalene block.

Complications: None.

**Procedure:** The patient was brought to the operating room. After induction of interscalene block anesthetic, the right upper extremity was prepped and draped after he was placed in the lateral decubitus position left side down. At this point, the posterior incision was made curving it laterally. Dissection was carried out through subcutaneous tissue to the triceps fascia. The superficial fascia was incised and now the triceps was taken off the lateral aspect of the humerus and retracted medially. The fracture was seen to go obviously into the joint, which was evident on the radiographs and therefore a hematoma was removed. At this point, a lag screw was placed from lateral to medial first reducing the fracture and then lagging it. After this was done, an Acumed lateral locking plate was placed on the lateral aspect secured proximally first and then distally with three locking screws and one non-locking and then superiorly with all three non-locking screws, which were bicortical in fixation. After this was done, this was done under fluoroscopy to ensure appropriate length, as well as placement of the screws and this was \_\_\_\_\_. The screws were in the appropriate placement, as well as being of the appropriate length and after this was done it was copiously irrigated after the screws were placed in the holes. They were irrigated because we threaded the holes. These were locking screws, which had to be threaded into the plate and after all the irrigation was performed, the final x-rays were taken with the fluoroscope and the superficial fascia above the triceps was closed with #0 Polysorb, then the subcutaneous with #2-0 and #3-0 and the skin with staples. Sterile dressing was applied. The patient tolerated the procedure and brought to the recovery room in good condition.

---

Signature of Surgeon

JD: rab:drb  
Job#: 05-00778123

Michael G. Brand, M.D.  
Michael J. Craig, M.D.  
Robert T. Deveney, M.D.  
Joseph DiGiovanni, M.D.  
Craig R. Foster, M.D.

D. Ross Henshaw, M.D.  
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22 Old Waterbury Road, Southbury, CT 06488  
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01/24/2008 THU 14:55

ID: #79302 Page 2 of 3



# Northeast Radiology

Patient Name: Brian Walsh  
Date of Birth: 02/29/1948  
Exam Date: 01/24/2008

MRNO: 77107  
Accession: 858669

JOSEPH DIGIOVANNI, MD  
226 WHITE STREET  
DANBURY, CT 06810

CT scan of the right elbow with 3 dimensional reformats

History: Status post ORIF of elbow fracture, elbow pain

Technique: Helical acquisition was performed at 3 mm intervals. Interpretation was performed utilizing a dedicated three-dimensional work station

Findings: There is a lateral fixation plate along the distal humerus. Multiple threaded screws are identified. There is no suspicious lucency along the threaded screws to indicate loosening. No residual fracture lucency is identified. There are severe degenerative changes of the elbow joint involving the articulation of the humerus and ulna. There appears to have been prior resection of the radial head. Several small ossicles are identified anteriorly adjacent to the distal humerus and could represent intra-articular loose bodies or non-united small fracture fragments, the largest of these measure 10 mm each in greatest dimension. It may be possible to distinguish between loose bodies and non-united fracture fragments utilizing CT arthrography if clinically warranted. Extensive osteophytes are present at the level of the elbow.

No soft tissue fluid collections or mass lesions are identified.

Impression:

Status post ORIF at the distal humerus and resection of the radial head

Severe degenerative changes of the elbow

Possible intra-articular loose bodies

Thank you for referring this patient.

DANBURY ORTHOPEDIC ASSOCIATES  
226 WHITE STREET  
DANBURY CT 06810-6814

<input type="checkbox"/> MasterCard <input type="checkbox"/> VISA <input type="checkbox"/> DISCOVER <input type="checkbox"/> AMERICAN EXPRESS		
CARD NUMBER		AMOUNT
SIGNATURE		EXP. DATE
STATEMENT DATE	PAY THIS AMOUNT	ACCT. #
02/25/09	.00	877098
SHOW AMOUNT PAID HERE		\$

Patient: BRIAN WALSH

**ADDRESSEE:**

BRIAN WALSH  
5702 CHELSEA COVE N  
HOPEWELL JUNCTION NY 12533

**REMIT TO:**

DANBURY ORTHOPEDIC ASSOCIATES  
226 WHITE STREET  
DANBURY CT 06810-6814  
203-743-3505

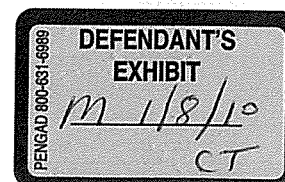
☐ Please check box if above address is incorrect or insurance information has changed, and indicate change(s) on reverse side.

**STATEMENT**

PLEASE DETACH AND RETURN TOP PORTION WITH YOUR PAYMENT  
P-9/0

07/23/07	OFFICE/OUTPATIENT VISIT;	DIGIOVAN	149.00		
08/09/07	AETNA PAYMENT			97.06-	
	CO-PAYMENT STILL DUE				
08/09/07	CONTRACTUAL ADJUSTMENT			36.94-	
09/06/07	CHECK PAYMENT - THANK YOU			15.00-	.00
07/23/07	PLASTALUME/STACK SPLINT	DIGIOVAN	14.00		
09/18/07	AETNA PAYMENT			.00	
	PYMT INCL IN THE ALLOW FOR ANOT PROC.				
10/01/07	CONTRACTUAL ADJUSTMENT			14.00-	.00
07/26/07	POST OPERATIVE VISIT	DIGIOVAN	.00		.00
07/25/07	REPAIR HUMERUS FRACTURE	DIGIOVAN	2623.00		
08/16/07	AETNA PAYMENT			1130.73-	
08/16/07	CONTRACTUAL ADJUSTMENT			1492.27-	.00
08/06/07	POST OPERATIVE VISIT	DIGIOVAN	.00		.00
08/06/07	X-RAY ELBOW, AP & LAT	DIGIOVAN	110.00		
08/24/07	AETNA PAYMENT			32.52-	
	CO-PAYMENT STILL DUE				
08/24/07	CONTRACTUAL ADJUSTMENT			67.48-	
09/24/07	CHECK PAYMENT - THANK YOU			10.00-	.00
09/10/07	POST OPERATIVE VISIT	DIGIOVAN	.00		.00
09/10/07	X-RAY ELBOW, AP & LAT	DIGIOVAN	110.00		
09/27/07	AETNA PAYMENT			32.52-	
09/27/07	CONTRACTUAL ADJUSTMENT			67.48-	
11/02/07	CHECK PAYMENT - THANK YOU			10.00-	.00

CONTINUED



DANBURY ORTHOPEDIC ASSOCIATES  
226 WHITE STREET  
DANBURY CT 06810-6814

<input type="checkbox"/> MasterCard <input type="checkbox"/> VISA <input type="checkbox"/> DISCOVER <input type="checkbox"/> AMERICAN EXPRESS	
CARD NUMBER	AMOUNT
SIGNATURE	EXP. DATE
STATEMENT DATE	PAY THIS AMOUNT
02/25/09	.00
ACCT. #	
877098	
SHOW AMOUNT PAID HERE \$	

Patient: BRIAN WALSH

**ADDRESSEE:**

BRIAN WALSH  
5702 CHELSEA COVE N  
HOPEWELL JUNCTION NY 12533

**REMIT TO:**

DANBURY ORTHOPEDIC ASSOCIATES  
226 WHITE STREET  
DANBURY CT 06810-6814  
203-743-3505

☐ Please check box if above address is incorrect or insurance information has changed, and indicate change(s) on reverse side.

**STATEMENT**

PLEASE DETACH AND RETURN TOP PORTION WITH YOUR PAYMENT P-9/1

10/11/07 POST OPERATIVE VISIT	DIGIOVAN	.00	.00
10/11/07 X-RAY ELBOW, AP & LAT	DIGIOVAN	110.00	
11/01/07 AETNA PAYMENT		32.52-	
11/01/07 CONTRACTUAL ADJUSTMENT		67.48-	
12/05/07 CHECK PAYMENT - THANK YOU		10.00-	.00
11/13/07 OFFICE SERVICE EXPANDED	DIGIOVAN	87.00	
11/13/07 COPAYMENT		15.00-	
12/03/07 AETNA PAYMENT		46.97-	
12/03/07 CONTRACTUAL ADJUSTMENT		25.03-	.00
11/13/07 X-RAY ELBOW, AP & LAT	DIGIOVAN	110.00	
12/03/07 AETNA PAYMENT		42.52-	
12/03/07 CONTRACTUAL ADJUSTMENT		67.48-	.00
01/28/08 OFFICE SERVICE EXPANDED	DIGIOVAN	87.00	
01/28/08 COPAYMENT		15.00-	
02/14/08 AETNA PAYMENT		46.97-	
02/14/08 CONTRACTUAL ADJUSTMENT		25.03-	.00

Balance Due >> .00



Klachtenr.:

d.d. binnenkomst CCC: 21/07

d.d. ontv. bev. klager:

Klachtenr.:

d.d. binnenkomst CCC: 22/07

d.d. ontv. bev. klager:

### Complaint:

(dictated by telephone 21/07/2007 to Lynn van der Velden, A/PS/CSI/CC)

Name: Mr. B. Walsh

Address: 5702 Chelsea Cove North,  
Hopewell Junction, N.Y.  
12533 U.S.A.  
Tel. 001-845-226-7278

### Complaint:

Mr. Walsh was boarding his flight – KL0641 – at Gate D07 when he tripped over a low railing that was not clearly indicated. He fell, injuring his elbow. Security personnel called Airport Medical Services, but, as AMS refused to come to the gate and refused to send transportation, Mr. Walsh was escorted by someone from Security to the First Aid. He was assured by Security personnel that his flight would wait, so his two traveling companions remained at the gate.

Airport Medical Services suspected a fracture, but had no splint material, so arranged for Mr. Walsh to be examined at the VU. He was obliged to take a taxi to get there. His arm was x-rayed, a fracture was ascertained. His arm was put into a cast, and he will need further medical treatment when he arrives home in New York.

The flight did not wait, and Mr. Walsh and his companions were waiting for standby seats on the next flight to JFK when he called the Customer Contact centre to register his complaint.

He demands compensation - €60 for the taxi to the VU, and €400 for the treatment he received – from Amsterdam Airport Schiphol.

